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Executive Orders

EXECUTIVE ORDER JBE 19-04

Protecting Health Coverage in Louisiana Task Force

WHEREAS, 849,000 non-elderly Louisianans had a declinable preexisting medical condition under medical underwriting practices in place prior to the enactment of the Patient Protection and Affordable Care Act (ACA);

WHEREAS, declinable preexisting conditions under pre-ACA practices included, but were not limited to: Alzheimer's/dementia, arthritis, cancer, diabetes, epilepsy, heart disease, multiple sclerosis, mental disorders, paraplegia, Parkinson's disease, and stroke;

WHEREAS, more than 465,000 Louisianans gained health coverage through the Medicaid Expansion authorized by the ACA and implemented pursuant to Executive Order No. JBE 16-01;

WHEREAS, Medicaid Expansion has provided more than 68,800 breast cancer screenings; 38,000 colon cancer screenings; and 38,500 hypertension diagnoses;

WHEREAS, Medicaid Expansion created more than 19,000 jobs in the 2017 fiscal year and spurred \$3.57 billion in economic activity;

WHEREAS, Medicaid Expansion has been a major contributing factor to keeping all Louisiana's rural hospitals open, while rural hospital closures escalate in neighboring states;

WHEREAS, Attorney General Jeff Landry joined a lawsuit, *Texas v. Azar*, seeking to invalidate the entire ACA;

WHEREAS, invalidation of the ACA would eliminate health protections for people with preexisting conditions, eliminate financial assistance for people receiving coverage through the federal Health Insurance Marketplace, and eliminate health insurance for Louisianans receiving coverage through Medicaid Expansion;

WHEREAS, the Attorney General has committed significant time and Louisiana taxpayer dollars to this lawsuit, without any consideration for its consequences and absent any realistic plan for protecting the health of Louisianans should the coverage provided by the ACA be lost;

WHEREAS, the Attorney General's attempted fix in the event he is successful in eliminating the protections of the ACA is contained in SB 173 of the 2019 Regular Session;

WHEREAS, this legislation does not provide for the needed protections of the ACA but does include a nebulous study to create a "Guaranteed Benefits Pool" under the exclusive purview of the Commissioner of Insurance;

WHEREAS, the State's pre-ACA high risk pool only covered one (1) percent of Louisianans in the individual insurance market;

WHEREAS, given the threat to the people of Louisiana, this incomplete study of limited insurance coverage is not in any way sufficient to develop realistic proposals should the protections in the ACA be invalidated; and

WHEREAS, a more comprehensive and thoughtful consideration of the risks faced by the people of Louisiana

as well as the policy solutions and the needed funding is necessary.

NOW, THEREFORE, I, JOHN BEL EDWARDS, Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: No executive branch departments of the State of Louisiana shall abridge a person's access to health insurance as prescribed by state and federal law.

SECTION 2: The Protecting Health Coverage in Louisiana Task Force is hereby established within the Executive Department.

SECTION 3: The duties of the Task Force include, but are not limited to, the following:

A. The Task Force shall develop policy proposals to maintain health care coverage for Louisianans at risk of losing health insurance or health protections due to *Texas v. Azar*.

B. The Task Force shall study and develop policy proposals to mitigate the impact of the loss of preexisting condition protections including, but not limited to: 1) guaranteed issue; 2) preexisting condition exclusion prohibition; 3) prohibition of lifetime and annual limits on coverage; 4) essential health benefits, 5) nondiscrimination.

C. The Task Force shall study and develop policy proposals to mitigate the impact of more than 465,000 Louisianans losing Medicaid coverage due to *Texas v. Azar*.

D. The Task Force shall study and develop policy proposals to determine the aggregate funding needed and financing options for the health coverage and health protections afforded by the ACA.

E. The Task Force shall study and develop policy proposals to maximize insurance coverage and minimize out-of-pocket medical costs in Louisiana.

SECTION 4: The Task Force shall be composed of a maximum of eleven (11) voting members, who shall be designated by and serve at the pleasure of the Governor. The Governor shall designate a Chair and Co-Chair from among the appointed members.

SECTION 5: The members shall include:

A. The Governor, or designee;

B. The Secretary of Health, or designee;

C. The Commissioner of Insurance, or designee;

D. The Attorney General, or designee;

E. The Chairmen of the House and Senate Health and Welfare Committees, or their designees;

F. Two at-large members representing consumer health groups, appointed by the Governor;

G. Two at-large members representing the insurance industry appointed by the Governor; and

H. One at-large member with expertise in economics and/or fiscal modeling, appointed by the Governor.

SECTION 6: The Task Force shall meet at regularly scheduled meetings and at the call of the Chair.

SECTION 7: The Task Force shall provide for a report to the governor and the legislature by February 1, 2020.

SECTION 8: Task Force members shall not receive additional compensation or a per diem. Further, all voting Task Force members shall be subject to the ethical restrictions contained in La. R.S. 42:1113.

SECTION 9: All meetings of the Task Force shall be subject to the Open Meetings Law as contained in La. R.S. 42:11 et seq. and shall be held in a location to allow access by the public.

SECTION 10: The Task Force shall be staffed by employees of the Office of the Governor.

SECTION 11: All departments, commissions, boards, offices, entities, agencies, and officers of the State of Louisiana, or any political subdivision thereof, are authorized to cooperate with the Task Force in implementing the provisions of this Order.

SECTION 12: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 21st day of May, 2019.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Aroin
Secretary of State
1906#043

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Guava Root Knot Quarantine (LAC 7:XV.171)

In accordance with the emergency provisions of the Administrative Procedures Act, La. R.S. 49:953 (B), and the authority of the state entomologist under the provisions of R.S. 3:1652, and in order to avoid a lapse in coverage until the Permanent Rule is in effect, notice is hereby given that Department of Agriculture and Forestry is adopting these emergency regulations establishing a quarantine for the following pest: Guava Root Knot Nematode, *Meloidogyne enterolobii*. The state entomologist has determined that Guava Root Knot Nematode has been found in this state and may be prevented, controlled, or eradicated by quarantine. The effective date of this Rule is upon signature.

Guava Root Knot Nematode (GRKN) poses an imminent threat to the health and welfare of Louisiana's sweet potato, sugarcane, cotton, and soybean industries. In 2017, the total value of sweet potato production, including value added was \$92.6 million (Louisiana State University AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a host for GRKN. The gross farm value for sugarcane in Louisiana was \$589.3 million and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$989.5 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for cotton in Louisiana was \$139.7 million and the total value of cotton production was \$210.1 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for soybeans in Louisiana was \$679.4 million and when value-added activities are included the total economic impact of the soybean industry is estimated at \$798.2 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

In addition to the aforementioned crops, GRKN is also a threat to the nursery and commercial vegetable industries. The gross value of commercial nursery production was \$107.1 million and the total value of nursery production was \$166.04 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Commercial vegetable production's gross value in 2017 was \$79.4 million and the total value of commercial vegetable production was \$186.7 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

Guava Root Knot Nematode has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. GRKN has a wide host range of crops and also weeds that it infects. It also has a high rate of reproduction so the use of fumigants would only temporarily reduce the nematode's populations. In addition, GRKN has been found to attack the native

Southern root knot nematode resistant varieties of cotton, tomato, pepper, soybean and sweet potato.

The natural dispersal of GRKN is limited to very short distances. However without quarantine restrictions, GRKN could spread through human assisted means over long distances through GRKN infested sweet potatoes, nursery stock, and commercial farm equipment.

In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons the presence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture industries. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in these emergency regulations.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of agriculture and forestry or until permanent rules are promulgated in accordance with law.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Chapter H. Guava Root Knot Nematode Quarantine

§171. Guava Root Knot Nematode Quarantine

A. The department issues the following quarantine because the state entomologist has determined that the Guava Root Knot Nematode, *Meloidogyne enterolobii*, has been found in this state and may be prevented, controlled, or eradicated by quarantine.

B. Quarantine Areas:

1. the states of Florida, North Carolina, and South Carolina;

2. a declaration of quarantine for guava root knot nematode covering any specific parish or area in Louisiana or any other state shall be published in the official journal of the state and in the *Louisiana Register*.

C. No regulated articles as defined in this Section shall be moved into any area of this state, except as provided in this Section.

D. The following articles are hosts of guava root knot nematode or may harbor guava root knot nematode and are deemed to be regulated articles for purposes of this Subsection:

1. the guava root knot nematode in all of its life stages; plant parts, specifically sweet potatoes, from Florida, North Carolina, and South Carolina that can harbor the guava root knot nematode; soil from the above-mentioned quarantined states that may harbor the guava root knot nematode; commercial planting and/or harvesting equipment from the above-mentioned quarantined states;

2. certified seed sweet potatoes may be moved from the quarantine area into Louisiana under a Special Permit issued by Louisiana Department of Agriculture and Forestry.

3. nursery crops may not be moved from the quarantine area into Louisiana, whether direct from said area or by diversion or reconsignment from any other point, unless each shipment or lot is accompanied by a certificate issued by the authorized agricultural official of the state, certifying the material to be free from guava root knot nematode.

4. any other article, product, or means of conveyance not listed in this Section may be designated as a regulated article if an inspector determines that it presents a risk of spreading guava root knot nematode and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of the regulations.

E. Commercial planting and/or harvesting equipment may be moved from quarantined areas into Louisiana only if moved under the following conditions.

1. The commercial equipment being moved is accompanied by a state of origin certificate issued by the state regulatory agency.

2. The commercial equipment must be thoroughly cleaned of any soil and plant debris and inspected by the state regulatory agency. The state regulatory agency must issue a state phytosanitary certificate attesting to the inspection and cleaning of the equipment.

F. Any person violating this quarantine shall be subject to imposition of the remedies and penalties set forth in R.S. 3:1653.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 45:

Mike Strain DVM
Commissioner

1906#020

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2019 Commercial Greater Amberjack Season Closure

Louisiana's commercial greater amberjack season was previously open from January 1, 2019 through February 28, 2019 with a seasonal closure from March 1 through May 31 of each year. The commercial season reopens on June 1 of each year. The regional administrator of NOAA Fisheries has informed the secretary that the 2019 commercial season for the harvest of greater amberjack in the federal waters of the Gulf of Mexico will close June 9, 2019 after a regularly scheduled reopening on June 1, 2019. Data indicate that the 2019 commercial annual catch target of 337,503 pounds is projected to be met. Compatible season regulations in state waters are preferable to provide effective rules and efficient enforcement for the fishery, and to prevent overfishing of the species in the long term.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and

Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the Secretary by the Commission in LAC 76:VII.335.G.5 to modify opening and closing dates of any commercial or recreational reef fish seasons in Louisiana state waters when he is informed by the regional administrator of NOAA Fisheries that the seasons have been closed in adjacent federal waters, the secretary hereby declares:

The season for the commercial harvest of greater amberjack in Louisiana state waters shall close at 12:01 a.m. on June 9, 2019 and shall remain closed until the start of the 2020 commercial season, currently scheduled to open on January 1, 2020. Effective with this closure, no person shall commercially harvest, possess, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell greater amberjack whether within or without Louisiana waters. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure providing that all commercial dealers possessing greater amberjack taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6.

Jack Montoucet
Secretary

1906#003

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Opening in a Portion of State Outside Waters

Editor's Note: This Emergency Rule is being reprinted to correct a coordinate error. The original Emergency Rule may be viewed on page 649 of the May 20, 2019 *Louisiana Register*.

The secretary of the Department of Wildlife and Fisheries has been notified that recent biological sampling conducted by the department has indicated that small white shrimp, which have over-wintered in these waters from January through the present time, have reached marketable sizes and the closure is no longer necessary. Significant numbers of smaller size white shrimp still remain in state outside waters west of the Atchafalaya River Ship Channel to the western shore of Freshwater Bayou Canal and these waters will remain closed to shrimping until further notice. Notice of any opening, delaying or closing of a season by the secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which allows the Wildlife and Fisheries Commission to delegate to the secretary of the Department of Wildlife and Fisheries the powers, duties and authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate

that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 2, 2018 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

The portion of state outside waters between Calliou Boca and the Atchafalaya River Ship Channel at Eugene Island shall reopen to shrimping at 12 p.m. on April 25, 2019. The eastern boundary line originates on the northwest shore of Caillou Boca at 29 degrees 02 minutes 46 seconds north latitude, -90 degrees 50 minutes 27 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 28 degrees 59 minutes 30 seconds north latitude, -90 degrees 51 minutes 57 seconds west longitude. The western boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.933 seconds north latitude, -91 degrees 22 minutes 58.916 seconds west longitude and ends at a point on the three mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.889 seconds north latitude, -91 degrees 26 minutes 16.049 seconds west longitude.

Jack Montoucet
Secretary

1905#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Shrimp Season Reopening in a Portion of State Outside Waters

The secretary has been notified that recent biological samples taken by Office of Fisheries biologists indicate that small white shrimp which have over-wintered in these waters from December through the present time have

reached marketable sizes and the closure is no longer necessary. Notice of any opening, delaying or closing of a season by the Secretary will be made by public notice at least 72 hours prior to such action.

In accordance with the emergency provisions of R.S. 49:953, the Administrative Procedure Act which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:497 which provides that the Wildlife and Fisheries Commission shall have the authority to open or close outside waters by zone each year as it deems appropriate upon inspection of and based upon technical and biological data which indicate that marketable shrimp, in sufficient quantities are available for harvest; and, a Declaration of Emergency adopted by the Wildlife and Fisheries Commission on August 2, 2018 which authorizes the secretary of the Department of Wildlife and Fisheries to reopen any area closed to shrimping when the closure is no longer necessary, the secretary hereby declares:

The portion of state outside waters between the Atchafalaya River Ship Channel at Eugene Island westward to western shore of Freshwater Bayou Canal shall reopen to shrimping at 6:00 a.m. on May 20, 2019. The eastern boundary line originates at the Atchafalaya River Ship Channel at Eugene Island as delineated by the red buoy line at 29 degrees 22 minutes 14.933 seconds north latitude, -91 degrees 22 minutes 58.916 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 18 minutes 33.889 seconds north latitude, -91 degrees 26 minutes 16.049 seconds west longitude. The western boundary line originates on the western shore of Freshwater Bayou Canal at 29 degrees 32 minutes 03 seconds north latitude, -92 degrees 18 minutes 33 seconds west longitude and ends at a point on the three-mile line as described in R.S. 56:495(A) at 29 degrees 29 minutes 02 seconds north latitude, -92 degrees 19 minutes 34 seconds west longitude.

Jack Montoucet
Secretary

1906#002

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—ACT Index Revisions
(LAC 28:XI.411, 1103, and 2901)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*. The amendments update the ACT/WorkKeys concordance table and align policy with Acts of the 2018 Regular Legislative Session related to honor roll designations and state annual reporting. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 4. Assessment and Dropout/Credit Accumulation Index Calculations

§411. ACT/WorkKeys Index

A.1. - A.2.a. ...

b. The concordance tables below will be used to award points for performance score results and will be reevaluated annually for continued alignment with ACT performance.

WorkKeys Index Beginning 2019-2020 (2020 SPS)	
WorkKeys Level	Index Points
Platinum	120.4
Gold	103.4
Silver	70.0

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:449 (March 2018), amended LR 45:749 (June 2019).

Chapter 11. School Performance Categories

§1103. Honor Rolls

[Formerly LAC 28:LXXXIII.1103]

A. The LDE will establish an honor roll to recognize high-performing schools and high schools with exemplary graduation rates.

B. The honor roll will be published with school and district performance scores and letter grades.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:2121 (July 2011), amended LR 38:3111 (December 2012), LR 45:749 (June 2019).

Chapter 29. Progress Report

§2901. State Annual Reporting

[Formerly LAC 28:LXXXIII.2901]

A. - A.2.i. ...

B. For the 2018-2019 school year and beyond, whenever the state board makes any significant change in the criteria, methodology, or manner of calculating and determining the school and district performance scores and letter grades that could result in a significant number of schools or districts experiencing a change in letter grade, the board will consider whether to publish the performance score and letter grade that would have been calculated and reported, had the change not been implemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2751 (December 2003), amended LR 38:3113 (December 2012), LR 44:459 (March 2018), LR 45:749 (June 2019).

Shan N. Davis
Executive Director

1906#036

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System—Inclusion in Accountability
(LAC 28:XI.605)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*.

In October 2018, BESE approved revisions to Bulletin 111, *The Louisiana School, District, and State Accountability System*, which established a new rating formula for alternative education schools that is more closely aligned to the unique mission of serving students referred to alternative education for long-term services. In order to ensure the inclusion of a majority of alternative education schools in the accountability system, the amendments clarify that alternative education schools will receive a school performance score and school letter grade with a minimum of 40 units. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part XI. Accountability/Testing

Subpart 1. Bulletin 111—The Louisiana School, District, and State Accountability System

Chapter 6. Inclusion in Accountability

§605. Inclusion of Schools

[Formerly §519]

A. - B.2. ...

C. Alternative education schools, as defined in §3503 of this Part, shall have a minimum of 40 units as defined in Subsections A and B of this Section.

D. Each member of a cohort used to calculate a graduation index will be counted as 4 units when determining the minimum number of units required calculating an SPS.

E. Inclusion of Indices

1. A school must have 10 students in the graduation cohort to receive the cohort graduation indices.

2. For schools with early graduates, an increasing grade configuration, and without cohort graduation members, ACT assessment scores shall be banked for the calculation of school performance scores until the accountability cycle associated with those early graduates, per cohort graduation policy.

F. The number of schools in an LEA with fewer than 120 units is expected to remain stable over time. In the event that the number of schools with fewer than 120 units increases from the prior school year, the local superintendent of that LEA will provide a written justification to the state superintendent of education and BESE. BESE may choose to award a school performance score for any school newly identified with under 120 total units beginning with the 2018-2019 school year (fall 2019 release).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2741 (December 2003), amended LR 31:1512 (July 2005), LR 32:1022 (June 2006), LR 34:431 (March 2008), LR 36:1991 (September 2010), LR 38:3108 (December 2012), LR 40:2507 (December 2014), LR 41:1263 (July 2015), LR 44:453 (March 2018), LR 45:749 (June 2019).

Shan N. Davis
Executive Director

1906#037

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

**Project Emissions Accounting and Offset
Requirements in Specified Parishes
(LAC 33:III.504)(AQ380)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.504 (AQ380).

This Rule has removed phrases from LAC 33:III.504 that explicitly preclude emissions decreases associated with a proposed project from being considered in determining whether the project results in a significant emissions increase.

It also deletes obsolete language from Footnote 4 of Table 1 and removes Livingston Parish from the list of parishes in which offsets for certain new stationary sources and modifications are required under LAC 33:III.504.

As described in EPA's March 13, 2018, memorandum entitled "Project Emissions Accounting Under the New Source Review Preconstruction Permitting Program," EPA now interprets the provisions of the federal New Source Review (NSR) programs "as providing that any emissions

decreases that may result from a given proposed project are to be considered when calculating at Step 1, whether the proposed project will result in a significant emissions increase." Previously, only emissions increases were considered in determining whether a proposed project resulted in a significant emissions increase and therefore triggered consideration of the net emissions increase over the project's contemporaneous period (i.e., Step 2), even if emissions decreases were inherently linked to the project. Accordingly, phrases which explicitly preclude emissions decreases associated with a proposed project from being considered in determining whether the project results in a significant emissions increase have been removed from LAC 33:III.504.

The reference to "a period of five years after the effective date of the rescission of the NOx waiver" has been removed from Footnote 4 of Table 1 in Chapter 504. EPA rescinded Baton Rouge's Section 182(f) NOx exemption (i.e., the NOx waiver) on May 5, 2003, effective June 4, 2003 (68 FR 23597). Therefore, a newly proposed project could not fall within the aforementioned date range.

Finally, Livingston Parish is removed from the list of parishes in which offsets for certain new stationary sources and modifications are required under LAC 33:III.504.M. Livingston Parish has only four Part 70 sources (AIs 9154, 11767, 19875, and 80537). Notably, none of the four are major sources of NOx, and only on (AI 19875) is a major source of VOC. Further, actual 2017 NOx and VOC emissions reported to LDEQ's Emissions Reporting and Inventory Center (ERIC) by owners/operators of facilities located in Livingston Parish comprised only 0.7 percent and 2.5 percent of total NOx and VOC emissions, respectively, reported by owners/operators of facilities located in five parishes in which offsets may presently be required (i.e., Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge).

The basis and rationale for this Rule are to :

Make LDEQ's Nonattainment New Source Procedures consistent with federal protocols by removing phrases from LAC 33:III.504 that explicitly preclude emissions decreases associated with a proposed project from being considered in determining whether the project results in a significant emissions increase;

Delete obsolete language from Footnote 4 of Table of Chapter 504; and

Remove Livingston Parish from the list of parishes in which offsets for certain new stationary sources and modifications are required under LAC 33:III.504.M.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

**§504. Nonattainment New Source Review (NNSR)
Procedures and Offset Requirements in
Specified Parishes**

A. - A.2. ...

3. The emissions increase that would result from a proposed modification shall be compared to the trigger values listed in Subsection L, Table 1 of this Section to determine whether a calculation of the net emissions increase over the contemporaneous period must be performed.

A.3.a. - K. ...

* * *

L. Table 1—Major Stationary Source/Major Modification Emission Thresholds

* * *

1. ...

2. Consideration of the net emissions increase will be triggered for any project that would increase emissions by 40 tons or more per year.

3. ...

4. Consideration of the net emissions increase will be triggered for any project that would increase VOC or NOX emissions by 5 tons or more per year or for any project that would result in a 25 ton or more per year cumulative increase in emissions of VOC or NOX within the contemporaneous period.

5. ...

M. Offset Requirements in Specified Parishes. Except as provided in Paragraph M.4 of this Section, the provisions of this Subsection shall apply to stationary sources located in the parishes of Ascension, East Baton Rouge, Iberville, and West Baton Rouge if the parish's designation with respect to the 8-hour national ambient air quality standard (NAAQS) for ozone is attainment, marginal nonattainment, or moderate nonattainment.

1. ...

2. Existing Stationary Sources

a. Consideration of the net emissions increase shall be triggered for any physical change or change in the method of operation that would increase emissions of VOC or NOX by 40 tons per year or more.

2.b. - 5.b. ...

6. Creditable emission reductions from sources located in Livingston Parish achieved prior to the removal of Livingston Parish from the list of affected parishes in LAC 33:III.504.M (and for which an ERC application has been submitted in accordance with LAC 33:III.615) shall remain eligible for use as offsets. However, emission reductions from sources located in Livingston Parish realized after Livingston Parish has been removed from the aforementioned list of affected parishes shall no longer be eligible for use as offsets for purposes of LAC 33:III.504.M.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:176 (February 1993), repromulgated LR 19:486 (April 1993), amended LR 19:1420 (November 1993), LR 21:1332 (December 1995), LR 23:197 (February 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 27:2225 (December 2001), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 30:2801 (December 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2436 (October 2005), LR 31:3123, 3155 (December 2005), LR 32:1599 (September 2006), LR 33:2082 (October 2007), LR 34:1890 (September 2008), LR 37:1568 (June 2011), LR 38:1232 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2766 (November 2012), LR 41:2135 (October 2015), LR 42:403 (March 2016), LR 43:926 (May 2017), amended by the Office of the Secretary, Legal

Affairs and Criminal Investigations Division, LR 45:750 (June 2019).

Herman Robinson
General Counsel

1906#016

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Medical Event Reporting (LAC 33:XV.613)(RP064)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Radiation Protection regulations, LAC 33:XV.613 (RP064).

This Rule makes changes to the medical event reporting regulations. Dose limits are being added to the reporting requirements in the regulations to lessen the burden on both the regulated community and the department.

The changes in the state regulations were prompted by the large number of reports of wrong patients or wrong body parts being X-rayed, but resulting in minimal patient doses. The basis and rationale for this Rule are to enable the state to provide clarification to the medical community on exactly when they need to report medical events to the department. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 6. X-Rays in the Healing Arts

§613. Notifications, Reports, and Records of Medical Events

A. A registrant shall report any medical event, except for an event that results from patient intervention, in which the administration of radiation involves the wrong patient, a procedure different than that which was authorized by the licensed practitioner of the healing arts, or a body site different from that which was authorized and intended to be exposed by the authorized X-ray procedure that results in:

1. unintended skin dose to the same area in a single procedure greater than two Gy (200 rad);

2. unintended dose other than skin dose in a single procedure greater than:

a. 20 percent of the facility's established protocol, or > 0.5 Gy (50 rad) to any organ; or

b. 20 percent of the facility's established protocol, or > 0.02 Sv (2 rem) effective dose;

3. exposure to the wrong patient or wrong site for the entire procedure when the resultant dose is:

a. greater than 0.5 Gy (50 rad) to any organ; or

b. an effective dose greater than 0.02 Sv (2 rem); or

4. a total effective dose that exceeds 0.02 Gy (2 rads) that involves any equipment failure, personnel error,

accident, abnormal or other unusual occurrence with the administration of ionizing radiation.

B. Any administration of radiation involving a wrong patient, a procedure different than that which was authorized by a licensed practitioner, or a wrong body site imaged, including those reported in Subsection A of this Section, shall be internally reported, investigated, documented, and addressed within the facility. Each registrant shall retain a record of these occurrences for five years.

C. A registrant shall report any event resulting from intervention of a patient or human research subject in which the administration of radiation results or will result in unintended permanent functional damage to an organ or a physiological system, as determined by a physician.

D. All reports, notifications, and records shall be in accordance with LAC 33:XV.712.C, D, and F.

E. Aside from the notification requirement, nothing in this Section affects any rights or duties of registrants and physicians in relation to each other, the individual, or the individual's responsible relatives or guardians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and 2104.B.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, LR 31:1064 (May 2005), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:751 (June 2019).

Herman Robinson
General Counsel

1906#017

RULE

Office of the Governor Board of Architectural Examiners

Continuing Education (LAC 46:I.1315)

The Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), has amended LAC 46:I.1315 pertaining to the continuing education of architects.

R.S. 37:145(B) provides that persons licensed by the board to practice architecture may, by rule of the board, be required to earn annually up to 12 hours of board-approved continuing education pertaining to building-design in connection with public health, safety, and welfare. Section 1315.C defines health, safety, and welfare subjects, and §1315.D requires that architects, unless exempt, complete a minimum of 12 continuing education hours each calendar year in health, safety, and welfare subjects as a condition of renewing registration.

During 2018, the 54 member boards of the National Council of Architectural Registration Boards (NCARB) voted to align the health, safety, and welfare subjects with the current experience areas of the Architectural Experience

Program (AXP—the program one must complete to meet the experience requirement for licensure) and the practice areas of the Architect Registration Examination (ARE—the examination one must pass to meet the examination requirement for licensure). The board supported this recommendation. The purpose of the amendment to §1315.C is to align the health, safety, and welfare subjects in the continuing education rules with the current experience areas of the Architectural Experience Program (AXP) and the practice areas of the Architect Registration Examination (ARE). This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 13. Administration

§1315. Continuing Education

A. - B.3. ...

C. Definitions

* * *

Health, Safety, and Welfare Subjects—technical and professional subjects related to the practice of architecture that the board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

a. Practice Management. This category focuses on areas related to the management of architectural practice and the details of running a business.

b. Project Management. This category focuses on areas related to the management of architectural projects through execution.

c. Programming and Analysis. This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.

d. Project Planning and Design. This category focuses on areas related to the preliminary design of sites and buildings.

e. Project Development and Documentation. This category focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a project.

f. Construction and Evaluation. This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.

* * *

D. - J.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:565 (April 2003), amended LR 33:2419 (November 2007), LR 38:1012 (April 2012), LR 40:1693 (September 2014), LR 45:752 (June 2019).

Katherine E. Hillegas
Director

1906#040

RULE

Office of the Governor Board of Architectural Examiners

Rules of Conduct (LAC 46:I.1901)

The Board of Architectural Examiners, in accordance with the provisions of R.S. 49:950 et seq., and through the authority granted in R.S. 37:144(C), has amended LAC 46:I.1901 pertaining to the rules of conduct of architects.

The Rule amends, restates, and clarifies the existing rules of conduct to ensure that they remain relevant to contemporary architectural practice and ensure the expected professional and ethical conduct of architects found in law remain focused on the protection of the health, safety, and welfare of the public. The amended rules are modeled after the Model Rules of Conduct favorably voted upon by the Member Boards of the National Council of Registration Boards during the 2018 NCARB Annual Business Meeting.

The changes to LAC 46:I.1901.A are primarily clarifications concerning the competence of an architect. More specifically, changes to existing LAC 46:I.1901.A.1 add to the first sentence the clause “primary duty is to protect the public’s health, safety, and welfare,” and add to the second sentence the clause “[i]n discharging that duty, an architect,” delete “which is,” and replace the word “of” with “in.” The changes to existing LAC 46:I.1901.A.2 in the first sentence replace the word “all” with “the,” add the word “federal,” and replace the word “municipal” with “local,” and in the second sentence add the words “law and.” The changes to existing LAC 46:I.1901.A.3 replace the words “undertake to” with “perform,” replace the words “he or she” with “the architect,” and replace the clause “as consultants, are qualified by education, training, and experience” with “has the necessary knowledge and skill.” The changes to the first sentence of existing LAC 46:I.1901.A.4 replace the words “[n]o person” with “[a]n architect shall not,” replace the words “such person’s” with “the architect’s,” and delete the clause “by physical or mental disabilities,” and add a second sentence, “[t]he assessment of impairment should be performed by an appropriately qualified professional.” The commentaries to LAC 46:I.1901.A.1 and LAC 46:I.1901.A.4 are new. The existing commentaries to LAC 46:I.1901.A are deleted, except the existing commentary to existing LAC 46:I.1901.A.3 is retained.

The changes to LAC 46:I.1901.B are primarily clarifications to the existing rules concerning conflict of interest. More specifically, the changes to LAC 46:I.1901.B.1 replace the word “for” with “in connection with,” replace “to and agreed to (such disclosure and agreement to be in writing)” with “waived in writing,” and replace “interested parties” with “parties.” Existing LAC 46:I.1901.B.2 is deleted. LAC 46:I.1901.B.2 is existing LAC 46:I.1901.B.3, except the words “in return” are deleted, the words “in connection with a project” are added, and the second sentence is new. LAC 46:I.1901.B.3 is new; it contains part of existing LAC 46:I.1901.B.2. The changes to LAC 46:I.1901.B.4 replace the word “[w]hen” with “[a]n architect when,” add the clause “by agreement of the parties,” add the word “independent,” replace the word “and” with “or as,” and delete the words “an architect” and

“favoring neither party to the contract.” LAC 46:I.1901.B.5 concerns the relationship between an AXP Supervisor and a candidate for licensure, and it is new. The commentaries to LAC 46:I.1901.B.2, LAC 46:I.1901.B.4, and LAC 46:I.1901.B.5 are new. The existing commentaries to LAC 46:I.1901.B are deleted, except the existing commentary to existing LAC 46:I.1901.B.1 is retained.

The changes to LAC 46:I.1901.C are primarily clarifications to the existing rules concerning full disclosure. More specifically, LAC 46:I.1901.C.1 is new. LAC 46:I.1901.C.2 are changes to existing LAC 46:I.1901.C.1, replacing the word “questions” with “matters,” and replacing the clause “when he or she is being compensated for making such statement or when he or she” with “if the architect is being compensated for making such statements.” LAC 46:I.1901.C.3 are changes to existing LAC 46:I.1901.C.2, replacing the clauses requiring an architect to “accurately represent to a prospective or existing client or employer his or her” and “and the scope of his or her responsibility in connection with work for which he or she is claiming credit” with a prohibition against the architect misrepresenting “the architect’s qualifications, capabilities, and experience or that of the architect’s firm.” LAC 46:I.1901.C.4 is a clarification of existing LAC 46:I.1901.C.3, replacing “[t]he architect” with “[a]n architect,” and changing the prohibition against an architect misrepresenting or exaggerating “his or her associate’s academic or professional qualifications” or the scope of “his or her degree of responsibility in or for the subject matter or prior assignments” with a prohibition against an architect misrepresenting or overstating the architect’s responsibility “in connection with work for which the architect or the architect’s firm is claiming credit.” The third sentence of existing LAC 46:I.1901.C.3 is made commentary. The first sentence of LAC 46:I.1901.C.5.a is a clarification of the first sentence of existing LAC 46:I.1901.C.4.a, replacing the words “his or her” with “an architect,” replacing the word “taken” with “made,” adding the words “federal,” “and adversely,” and “health and,” and replacing the word “municipal” with “local.” LAC 46:I.1901.C.5.i, ii, and iii are clarifications of existing LAC 46:I.1901.C.4.i, ii, and iii, changing reporting “the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws and regulations” to reporting “the decision to the official charged with enforcement of building laws and regulations,” replacing the word “his” with “the architect’s,” and replacing “terminate his services” with “terminate the provision of services.” LAC 46:I.1901.C.5.b is existing LAC 46:I.1901.C.4.b. LAC 46:I.1901.C.6 is a clarification of existing LAC 46:I.1901.C.5, changing the provision that an architect shall not “deliberately make a materially false statement or fail deliberately to disclose a material fact requested” to a provision that an architect shall not “make a false statement or fail to disclose a material fact requested by the board,” replacing the words “his or her” with “the architect’s,” and changing the words “registration” to “licensure.” LAC 46:I.1901.C.7 is a clarification of existing LAC 46:I.1901.C.6 which currently provides that an architect shall not assist the application for registration of a person known by an architect to be unqualified; the Rule clarifies that an architect “shall not knowingly sign any verification document related to licensure that contains false

or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified.” LAC 46:I.1901.C.8 is new. LAC 46:I.1901.C.9 clarifies the requirement contained in existing LAC 46:I.1901.C.7 that an architect “possessing knowledge of a violation of these rules by another architect shall report such knowledge to the board.” All existing commentaries to existing LAC 46:I.1901.C are deleted.

The changes to LAC 46:I.1901.D are primarily clarifications to the existing rules concerning compliance with laws. The rules replace in existing LAC 46:I.1901.D.1 the provision that an architect shall not “in the conduct of his or her architectural practice knowingly violate any state or federal criminal law” with the provision that an architect shall not violate “the law of the United States or any U.S. jurisdiction that in any way relates to the conduct of the architect’s practice.” LAC 46:I.1901.D.2 is new. LAC 46:I.1901.D.3 clarifies existing LAC 46:I.1901.D.3 by replacing the word “registration” with “licensing,” replacing the words “his/her” with “the architect’s,” replacing “United States” with “U.S.,” and adding a second sentence. Existing LAC 46:I.1901.D.2 is moved to LAC 46:I.1901.D.4. LAC 46:I.1901.D.5 concerns certain conduct of an employer engaged in the practice of architecture, and it is new. All commentaries to existing LAC 46:I.1901.D are deleted.

LAC 46:I.1901.E concerns an architect sealing documents, and it is new. LAC 46:I.1901.E.1 sets forth the general Rule concerning an architect sealing technical submissions, and E.2 sets forth exceptions to the general Rule. LAC 46:I.1901.E.3 sets forth rules related to the sealing of prototypical building documents. Existing LAC 46:I.1901.E, which concerns the conduct of any branch office of a firm rendering architectural services, is deleted. The existing commentary to existing LAC 46:I.1901.E is deleted, and no commentaries to LAC 46:I.1901.E are made.

This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part I. Architects

Chapter 19. Rules of Conduct: Violations

§1901. Rules of Conduct

A. Competence

1. In practicing architecture, an architect’s primary duty is to protect the public’s health, safety, and welfare. In discharging this duty, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill ordinarily applied by architects in good standing, practicing in the same locality.

COMMENTARY This rule is based on the common law “standard of care” that has been accepted by courts in this country for over 100 years in judging the performance of architects.

2. In designing a project, an architect shall take into account the applicable federal, state, and local building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.

3. An architect shall perform professional services only when the architect, together with those whom the architect may engage has the necessary knowledge and skill in the specific technical areas involved.

COMMENTARY While an architect is licensed to undertake any project which falls within the definition of the practice of architecture, as a professional, the architect must understand and be limited by the limitations of his or her own capacity and knowledge. Where an architect lacks experience, the rule supposes that he or she will retain consultants who can appropriately supplement his or her own capacity. If an architect undertakes to do a project where he or she lacks knowledge and where he or she does not seek such supplementing consultants, the architect has violated the rule.

4. An architect shall not be permitted to practice architecture if, in the board’s judgment, the architect’s professional competence is substantially impaired. The assessment of impairment should be performed by an appropriately qualified professional.

COMMENTARY This rule empowers the board to act preemptively in the interest of public health, safety, and welfare when the board becomes concerned that an architect’s competence may be impaired, rather than waiting until the impaired competence causes harm.

B. Conflict of Interest

1. An architect shall not accept compensation in connection with services from more than one party on a project unless the circumstances are fully disclosed and waived in writing by all parties.

COMMENTARY This rule recognizes that in some circumstances an architect may receive compensation from more than one party involved in a project but that such bifurcated loyalty is unacceptable unless all parties have understood it and accepted it.

2. An architect shall not solicit or accept compensation from material or equipment suppliers for specifying or endorsing their products in connection with a project. As used herein, “compensation” shall mean customary and reasonable business hospitality, entertainment, or product education.

COMMENTARY Unlike Rule B.1, this rule does not provide for waiver by agreement. Customary and reasonable business hospitality, entertainment, and product education may be determined by jurisdictional ethics laws, company policies, and tax guidelines. In Louisiana, a Code of Governmental Ethics is found at La. R.S. 42:1101 et seq.

3. An architect shall not perform professional services in the face of a conflict of interest that is not fully disclosed and waived in writing by all parties. An architect has a conflict of interest when:

a. the architect has or may acquire a financial or other interest in the project, someone participating in it, or any component of it; or

b. the architect’s judgment may be adversely affected by a relationship with another party.

4. An architect, when acting by agreement of the parties as the independent interpreter of building contract documents or as the judge of contract performance, shall render decisions impartially.

COMMENTARY This rule governs the construction industry relationship where the architect is to act impartially as the interpreter of building contract documents and/or the judge of contract performance, even though paid by the owner. The rule recognizes that these roles are not inevitable and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in either of these two roles.

5. An architect serving as an AXP Supervisor for a candidate for licensure shall not have, nor enter into, any relationship with the candidate that would interfere with the objectivity of the AXP Supervisor's certification of the candidate's experience.

COMMENTARY AXP Supervisors should balance their duty to protect the public with their role in licensure candidate development. Balancing these duties make the AXP Supervisors' objectivity critical.

C. Full Disclosure

1. An architect shall not make statements that are misleading, deceptive, or false.

2. An architect making public statements on architectural matters shall disclose if the architect is being compensated for making such statements or has an economic interest in the issue.

3. An architect shall not misrepresent the architect's qualifications, capabilities, and experience or that of the architect's firm.

4. An architect shall not misrepresent or overstate the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit.

COMMENTARY Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates joint ventures, or his/her or their past accomplishments with the intent and purpose of enhancing his/her qualifications or his/her work.

5.a. If, in the course of an architect's work on a project, the architect becomes aware of a decision made by the architect's employer or client, against the architect's advice, which violates applicable federal, state, or local building laws and regulations and which will, in the architect's judgment, materially and adversely affect adversely the health and safety of the public, the architect shall:

- i. refuse to consent to the decision, and
- ii. report the decision to the official charged with enforcement of building laws and regulations,
- iii. in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection, terminate the provision of services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

b. In the case of a termination in accordance with §1901.C.5.a.iii, the architect shall have no liability to his or her client or employer on account of such termination.

COMMENTARY In the circumstances described, the architect is compelled to report the matter to the appropriate building official even though to do so may adversely affect the client's interests. The rule specifically intends to exclude matters of safety during the course of construction that are the obligation of the contractor.

6. An architect shall not make a false statement or fail to disclose accurately and completely a material fact lawfully requested by the board in connection with the architect's application for licensure or renewal.

7. An architect shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified.

8. An architect possessing knowledge of a licensure candidate's qualifications for licensure shall cooperate with the candidate, the board, and/or NCARB by responding appropriately and in a timely manner regarding those qualifications.

9. An architect possessing knowledge of a violation of the jurisdiction's laws or rules governing the practice of architecture by another shall report such knowledge to the board. It is the professional duty of the architect to do so.

D. Compliance with Laws

1. An architect shall not violate the law of the United States or any U.S. jurisdiction that in any material way relates to the conduct of the architect's practice.

2. An architect shall not engage in conduct involving fraud or deliberate disregard of the rights of others.

3. An architect shall comply with the licensing laws and regulations governing the architect's professional practice in any U. S. jurisdiction. An architect may be subject to disciplinary action if the architect is disciplined in any other U.S. jurisdiction.

4. An architect shall neither offer nor make any payment or gift with the intent of influencing an official's judgment in connection with a prospective or existing project in which the architect is interested.

5. An employer engaged in the practice of architecture found by a court or administrative tribunal to have violated the law of the United States or any U.S. jurisdiction protecting the rights of persons working for the employer, such as those pertaining to harassment, discrimination, and unfair competition, shall be subject to discipline.

E. Sealing Documents

1. An architect shall seal only those technical submissions that were prepared under the architect's responsible control except as noted in Rules E.2 and E.3 below.

2. An architect of record may seal technical submissions not required by law to be prepared by an architect including information supplied by manufacturers, suppliers, installers, or contractors, when that information is intended to be incorporated into the architect of record's technical submissions and the architect of record has reviewed such information and can reasonably trust its accuracy.

3. An architect of record may seal prototypical building documents prepared by an architect licensed in any U.S. jurisdiction, but only if the architect of record determines that such documents are in compliance with the requirements of the project's jurisdiction and incorporates them into the architect of record's own technical submissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:144-45.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Architectural Examiners, LR 29:572 (April 2003), amended LR 31:3159 (December 2005), LR 45:754 (June 2019).

Katherine E. Hillegas
Executive Director

1906#039

RULE

Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Community Choices Waiver
Programmatic Allocation of Waiver Opportunities
(LAC 50:XXI.8105)

The Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services have amended LAC 50:XXI.8105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE Part XXI. Home and Community Based Services Waivers

Subpart 7. Community Choices Waiver

Chapter 81. General Provisions

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. Community choices waiver opportunities shall be offered to individuals on the registry according to priority groups. The following groups shall have priority for community choices waiver opportunities, in the order listed:

1. - 4. ...

5. individuals who are not presently receiving home and community-based services (HCBS) under another Medicaid program, including, but not limited to:

- a. Program of All-Inclusive Care for the Elderly (PACE);
- b. long-term—personal care services (LT-PCS); and/or
- c. any other 1915(c) waiver; and
- d. Repealed.

B.6. - E.2.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:3517 (December 2011), amended LR 39:319 (February 2013), LR 39:1778 (July 2013), amended by the Department of Health, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 44:1896 (October 2018), LR 45:756 (June 2019).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1906#026

RULE

Department of Health Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
(LAC 50:II.20026)

The Department of Health, Bureau of Health Services Financing has adopted LAC 50:II.20026 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Nursing Facilities

Subpart 5. Reimbursement

Chapter 200. Reimbursement Methodology §20026. Geriatric Training Nursing Facility

Reimbursement Rate

NOTE: The provisions of this Section shall be subject to approval by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) of a; State Plan amendment authorizing such payment.

A. Effective for dates of service on or after July 1, 2019, LDH shall provide a private nursing facility reimbursement rate of \$365.68 per resident per day to an entity that meets the following criteria:

1. the entity has a cooperative endeavor agreement (CEA) with Louisiana State University (LSU) to operate the current John J. Hainkel, Jr. Home and Rehabilitation Center or any other future location approved by the parties and the department, as a geriatric training nursing facility.

B. The private nursing facility reimbursement rate established in Subsection A above is all-inclusive.

1. Add-ons, including, but not limited to, technology dependent care (TDC), nursing facility rehabilitation services and nursing facility complex care services add-ons shall not be permitted under this reimbursement rate.

C. Any nursing facility that meets the criteria set forth in Subsection A above shall file an annual cost report with LDH within five months following the end of the facility's fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 45:756 (June 2019).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Rebekah E. Gee MD, MPH
Secretary

1906#027

RULE

Department of Health Licensed Professional Counselors Board of Examiners

Definitions (LAC 46:LX.503)

In accordance with the applicable provisions of the Louisiana Administrative Procedures Act (R.S.49:950 et seq.) and through the authority of the Mental Health Counselor Licensing Act (R.S. 37:1101 et seq.), the Louisiana Licensed Professional Counselors Board of Examiners has amended definitions. This Rule is hereby adopted upon the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 5. License and Practice of Counseling

§503. Definitions for Licensed Professional Counselors and Provisional Licensed Professional Counselors

A. For purposes of this Part, the following definitions will apply.

Active Supervision—the process by which a supervisee receives one hour of face-to-face supervision with his/her board-approved supervisor for every 20 hours of direct client contact. Active Supervision is based on direct client contact hours. Supervision hours shall be adjusted if the provisional licensed professional counselor has less than or more than 20 hours of direct contact. The supervisor and supervisee must meet at least one hour within a three-month period.

Administrative Supervisor—person responsible for the overall administrative functions of their agency/organization. The Administrative Supervisor is responsible for the control, oversight and responsibility of PLPC in the setting in which the PLPC is employed, contracted or volunteering.

Applicant—an individual who has submitted an application to the board for the initial review, renewal, reinstatement of a license or certification.

* * *

Bureau—the Louisiana State Police Bureau of Criminal Identification and Information.

Clinical Supervision—a distinct professional practice employing a collaborative relationship between a supervisor and a supervisee. At a minimum, this relationship has facilitative, evaluative, and supervisory components. The goal of Clinical Supervision is to enhance the professional competence, monitor the quality of services provided, maintain the ethical standards of practice, protect the welfare of the public, and serve as a gatekeeper for entry into the mental health counseling profession. All licensees who serve in a supervisory capacity are governed by the current ACA code of ethics for supervision. All licensees that supervise

another person are governed by the code of conduct and regulatory standards regarding supervisor and supervision set forth by the Licensed Professional Counselors Board of Examiners. A supervisor may not be a relative of the PLPC. Relative of the PLPC is defined as spouse, parent, child, sibling of the whole-or half-blood, grandparent, grandchild, aunt, uncle, one who is or has been related by marriage or has any other dual relationship. Caution must be exercised in dual relationships when serving as both the Administrative Supervisor and the LPC Supervisor.

Contract Employee/Private Contractor—an employee who works under contract for an employer. Hired for a specific job at a specific rate of pay; is not considered a permanent employee. A PLPC may be a contracted employee.

Criminal History Record Information—information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising from, including sentencing, criminal correctional supervision and release. It shall not include intelligence information gathered for investigatory purposes or any identification information that does not indicate involvement of the individual in the criminal justice system.

* * *

Licensure—any license, certification, or registration for the practice of mental health counseling approved by the board.

LPC Supervisor—provides clinical supervision to the PLPC, which must be approved by the board. The LPC Supervisor has the responsibility of assisting PLPCs in increasing their competences as a mental health professional. The LPC Supervisor has no control, oversight, or responsibility for the services of a PLPC whom they are supervising within the agency/organization they are employed, contracted or volunteering, unless the LPC supervisor also serves as the administrative supervisor of the PLPC. To be designated as a LPC Supervisor, one must be approved by the board and fulfill the requirements outlined in Chapter 8.

Practice of Mental Health Counseling/Psychotherapy—rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders to individuals, groups, organizations, or the general public by a licensed or provisional licensed professional counselor, which is consistent with his/her professional training as prescribed by R.S. 37:1107(A)(8), and *Code of Ethics*/behavior involving the application of principles, methods, or procedures of the mental health counseling profession which includes but is not limited to the following.

a. *Mental Health Counseling/Psychotherapy*—assisting an individual or group through psychotherapy by rendering or offering prevention, assessment, diagnosis, and treatment, which includes psychotherapy of mental, emotional, behavioral, and addiction disorders. This

professional relationship empowers diverse individuals, families, and groups to accomplish mental health, wellness, education, and career goals.

b. *Consulting*—interpreting or reporting scientific fact or theory to provide assistance in solving current or potential problems of individuals, groups, or organizations. Section 505 defines ongoing consultation and collaboration for assessment, diagnosis, and treatment of serious mental illnesses.

c. *Referral Activities*—the evaluation of data to identify problems and to determine the advisability of referral to other specialists.

d. *Research Activities*—reporting, designing, conducting, or consulting on research in counseling with human subjects.

e. *Appraisal*—

i. use or administration of tests of language, educational and achievement tests, adaptive behavioral tests, and symptoms screening checklists or instruments, as well as tests of abilities, interests, and aptitudes, for the purpose of diagnosing those conditions allowed within the scope of these statutes, defining counseling goals, planning and implementing interventions, and documenting clients progress as related to mental health counseling. Appraisal includes but is not necessarily limited to the following areas.

(a). *Abilities*—those normative-based individual and group administered instruments used to measure general mental ability vis-a-vis specific abilities.

(b). *Interests*—those normative-based individual and group administered instruments used to suggest educational and vocational adjustment, interpersonal relations, intrapersonal tendencies and interests, satisfaction from avocational pursuits, and other major phases of human development.

(c). *Aptitudes*—those normative-based individual and group administered instruments used to measure special ability related to a future task(s).

ii. Qualified licensed professional counselors as well as other appropriately licensed or certified professionals may also administer or use test of language, educational and achievement, adaptive behavior tests, and symptom screening checklists or instruments. The administration and interpretation of these tests are not exclusively within the scope of this regulation.

iii. Appraisals done within the practice of mental health counseling must be performed in accordance with the requirements of the *Louisiana Administrative Code*, Title 46, Part LX, Chapter 21, Code of Conduct for Licensed Professional Counselors and Provisional Licensed Professional Counselors. A licensed professional counselor must be privileged by this board to utilize formal appraisal instruments and shall limit such use to those areas heretofore mentioned in this Chapter. A licensed professional counselor who wishes to be board privileged to utilize formal appraisal instruments in the appraisal of individuals shall additionally furnish this board satisfactory evidence of formal graduate training in statistics, sampling theory, test construction, test and measurements and individual differences and must renew this privileging designation every two years (as defined in Chapter 7). Formal training shall include a practicum and supervised practice with appraisal instruments.

f. *Graduate Degree*—the substance of which is professional mental health counseling from a regionally accredited university (as defined in Chapter 7) and must conform to one of the criteria below:

i. a CACREP accredited—program or its equivalent as determined by the board.

ii. a counseling program incorporating the word “counseling” or “counselor” in its title;

iii. a program incorporating a counseling-related term in its title (e.g., marriage and family therapy); or

iv. a program incorporating the eight content areas, a counseling practicum, and a counseling internship.

g. The requisite graduate degree may not consist of a degree in any disciplines otherwise licensed by the state of Louisiana including, but not limited to, psychology, clinical psychology, or social work, with the exception of counseling psychology and vocational rehabilitation counseling programs.

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling.

Provisional Licensed Professional Counselor—any person by title or description of services incorporating the words “provisional licensed professional counselor” and who, under board-approved supervision (i.e. may not practice independently), renders professional mental health counseling/psychotherapy services denoting a client-counselor relationship in which the licensee assumes the responsibility for knowledge, skill, and ethical consideration needed to assist individuals, groups, organizations, or the general public, and who implies that he/she is provisionally licensed to practice mental health counseling.

Temporary Registered LPC—

a. any person who:

i. holds a full and unrestricted license or certificate in mental health counseling/psychotherapy in another state or U.S. territory;

ii. are temporarily employed in Louisiana to render mental health counseling services for not more than 30 consecutive days a year or during a declared state of emergency; and

iii. unless a state of emergency is declared a temporary registration shall only be issued once per licensee.

b. The board must pre-approve any exception to this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March

1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019).

Jamie S. Doming
Executive Director

1906#031

RULE

Department of Insurance Office of the Commissioner

Regulation 89—Suitability in Annuity Transactions (LAC 37:XIII.Chapter 117)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 89—Suitability in Annuity Transactions.

The purpose of the amendments to Regulation 89 is to adopt changes made to date to the National Association of Insurance Commissioners' Suitability in Annuity Transactions Model Regulation and to make those changes consistent with the Louisiana Insurance Code. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 117. Regulation Number 89—Suitability in Annuity Transactions

§11701. Purpose

A. The purpose of this regulation is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019).

§11703. Scope

A. This regulation shall apply to any recommendation to purchase, exchange, or replace an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the recommended purchase, exchange, or replacement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019).

§11705. Authority

A. This regulation is promulgated under the authority of R.S. 22:11 and the auspices of R.S. 22:1961 et seq., referred to as unfair trade practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019).

§11707. Exemptions

A. Unless otherwise specifically included, this regulation shall not apply to transactions involving:

1. - 2.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019).

§11709. Definitions

Annuity—an annuity that is an insurance product under State law that is individually solicited, whether the product is classified as an individual or group annuity.

FINRA—the Financial Industry Regulatory Authority or a succeeding agency.

Recommendation—advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase, exchange, or replacement of an annuity in accordance with that advice.

Replacement—a transaction in which a new policy or contract is to be purchased, and it is known or should be known to the proposing producer, or to the proposing insurer if there is no producer, that by reason of the transaction, an existing policy or contract has been or is to be:

1. lapsed, forfeited, surrendered, or partially surrendered, assigned to the replacing insurer, or otherwise terminated;

2. converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits, or other policy values;

3. amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

4. reissued with any reduction in cash value; or

5. used in a financed purchase.

Suitability Information—information that is reasonably appropriate to determine the suitability of a recommendation, including the following:

1. age;

2. annual income;

3. financial situation and needs, including the financial resources used for the funding of the annuity;

4. financial experience;

5. financial objectives;

6. intended use of the annuity;

7. financial time horizon;

8. existing assets, including investment and life insurance holdings;

9. liquidity needs;

10. liquid net worth;

11. risk tolerance; and

12. tax status.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:759 (June 2019).

§11711. Duties of Insurers and of Insurance Producers

A. In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs, including the consumer's suitability information, and that there is a reasonable basis to believe all of the following:

1. the consumer has been reasonably informed of various features of the annuity, such as the potential surrender period and surrender charge, potential tax penalty if the consumer sells, exchanges, surrenders, or annuitizes the annuity, mortality, and expense fees, investment advisory fees, potential charges for and features of riders, limitations on interest returns, insurance, and investment components and market risk;

2. the consumer would benefit from certain features of the annuity, such as tax-deferred growth, annuitization, or death or living benefit;

3. the particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable (and in the case of an exchange or replacement, the transaction as a whole is suitable) for the particular consumer based on his or her suitability information; and

4. in the case of an exchange or replacement of an annuity, the exchange or replacement is suitable including taking into consideration whether:

- a. the consumer will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits (such as death, living, or other contractual benefits), or be subject to increased fees, investment advisory fees, or charges for riders and similar product enhancements;

- b. the consumer would benefit from product enhancements and improvements; and

- c. the consumer has had another annuity exchange or replacement and, in particular, an exchange or replacement within the preceding 36 months.

5. The requirements of this Section are intended to supplement and not replace the disclosure requirements of any annuity disclosure regulation promulgated by the Louisiana Department of Insurance.

B. Prior to the execution of a purchase, exchange, or replacement of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain the consumer's suitability information.

C. Except as permitted under Subsection D, an insurer shall not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information.

D.1. Except as provided under Paragraph 2 of this Subsection, neither an insurance producer, nor an insurer, shall have any obligation to a consumer under Subsection A or C related to any annuity transaction if:

- a. no recommendation is made;

- b. a recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer;

- c. a consumer refuses to provide relevant suitability information and the annuity transaction is not recommended; or

- d. a consumer decides to enter into an annuity transaction that is not based on a recommendation of the insurer or the insurance producer.

2. An insurer's issuance of an annuity subject to Paragraph 1 shall be reasonable under all the circumstances actually known to the insurer at the time the annuity is issued.

E. An insurance producer or, where no insurance producer is involved, the responsible insurer representative, shall at the time of the sale:

1. make a record of any recommendation subject to §11711.A;

2. obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and

3. obtain a customer signed statement acknowledging that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction that is not based on that insurance producer's or insurer's recommendation.

F.1. An insurer shall establish a supervision system that is reasonably designed to achieve the insurer's and its insurance producers' compliance with this regulation, including, but not limited to, the following:

- a. the insurer shall maintain reasonable procedures to inform its insurance producers of the requirements of this regulation and shall incorporate the requirements of this regulation into relevant insurance producer training manuals;

- b. the insurer shall establish standards for insurance producer product training and shall maintain reasonable procedures to require its insurance producers to comply with the requirements of R.S. 22:1576.

- c. the insurer shall provide product-specific training and training materials which explain all material features of its annuity products to its insurance producers;

- d. the insurer shall maintain procedures for review of each recommendation prior to issuance of an annuity that are designed to ensure that there is a reasonable basis to determine that recommendation is suitable. Such review procedures may apply a screening system for the purpose of identifying selected transactions for additional review and may be accomplished electronically or through other means including, but not limited to, physical review. Such an electronic or other system may be designed to require additional review only of those transactions identified for additional review by the selection criteria;

- e. the insurer shall maintain reasonable procedures to detect recommendations that are not suitable. This may include, but is not limited to, confirmation of consumer suitability information, systematic customer surveys, interviews, confirmation letters, and programs of internal monitoring. Nothing in this Subparagraph prevents an insurer from complying with this Subparagraph by applying sampling procedures, or by confirming suitability information after issuance or delivery of the annuity; and

- f. the insurer shall annually provide a report to senior management, including the senior manager

responsible for audit functions, which details a review with appropriate testing, reasonably designed to determine the effectiveness of the supervision system, the exceptions found, and corrective action taken or recommended, if any.

2.a. Nothing in this Subsection restricts an insurer from contracting for performance of a function (including maintenance of procedures) required under Paragraph 1. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties pursuant to §11713 regardless of whether the insurer contracts for performance of a function and regardless of the insurer's compliance with Subparagraph b of this Paragraph.

b. An insurer's supervision system under Paragraph 1 shall include supervision of contractual performance under this Subsection. This includes, but is not limited to, the following:

i. monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and

ii. annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed.

3. An insurer is not required to include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer.

G. An insurance producer shall not dissuade, or attempt to dissuade, a consumer from:

1. truthfully responding to an insurer's request for confirmation of suitability information;

2. filing a complaint; or

3. cooperating with the investigation of a complaint.

H.1. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions (FINRA Rule 2330 and Rule 2111) shall satisfy the requirements under this regulation. This Subsection applies to FINRA broker-dealer sales of annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this Subsection shall limit the insurance commissioner's ability to enforce (including investigate) the provisions of this regulation.

2. For Paragraph 1 to apply, an insurer shall:

a. monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and

b. provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:760 (June 2019).

§11713. Compliance Mitigation; Penalties

A. An insurer is responsible for compliance with this regulation. If a violation occurs, either because of the action or inaction of the insurer or its insurance producer, the commissioner may order:

1. ...

2. a general agency, independent agency, or the insurance producer to take reasonably appropriate corrective

action for any consumer harmed by the insurance producer's violation of this regulation; and

3. appropriate penalties and sanctions.

B. In determining appropriate penalties and sanctions pursuant to R.S. 22:1969 for a violation of §11711.A, B, or C.2 of this regulation, the commissioner may consider whether corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:761 (June 2019).

§11715. Recordkeeping

A. Insurers, general agents, independent agencies and insurance producers shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but shall not be required, to maintain documentation on behalf of an insurance producer.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), amended LR 45:761 (June 2019).

§11717. Severability

A. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 32:2268 (December 2006), repromulgated LR 45:761 (June 2019).

§11719. Effective Date

A. Regulation 89, as amended, shall become effective upon final promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 45:761 (June 2019).

Nicholas Lorusso
Chief Deputy Commissioner

1906#005

RULE

Department of Treasury

Board of Trustees of the Teachers' Retirement System

Military Service Purchases and Compliance with the
Uniformed Services Employment and
Reemployment Rights Act (LAC 58:III.2101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:152.1 and 826, the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has adopted LAC 58:III.2101 in order to ensure harmonization of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and various provisions of state statute

relating to military time and TRSL benefits. This Rule is hereby adopted on the day of promulgation.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 21. Uniformed Services Employment and Reemployment Rights Act (USERRA)

§2101. Military Service Purchases and Compliance with the Uniformed Services Employment and Reemployment Rights Act (USERRA)

A. This Section is adopted in accordance with R.S. 11:152, R.S. 11:152.1, R.S. 11:153, R.S. 29:411, et seq., and the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.).

B. Purchase of service credit for military service shall be in accordance with R.S. 11:153.

C. The board shall comply with the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 U.S.C. 4301 et seq.) as well as rules and regulations issued by the United States Department of Labor relating to USERRA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:152.1 and 826.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:762 (June 2019).

Dana L. Vicknair
Director

1906#030

RULE

Department of Treasury Board of Trustees of the Teachers' Retirement System

Rulemaking Procedures and Commentary (LAC 58:III.103)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 and 49:953(C), the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) has adopted LAC 58:III.103 in order to ensure compliance with R.S. 49:953(C) requiring state agencies to prescribe the form and procedures for interested persons to petition such agency requesting adoption, amendment, or repeal of a rule, and requiring state agencies to conduct hearings within certain time periods for the purpose of allowing interested persons the opportunity to comment on rules of the agency. This Rule is hereby adopted on the day of promulgation.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 1. General Provisions

§103. Rulemaking Procedures and Commentary

A. All rules of the board shall be adopted, amended or repealed in accordance with the Administrative Procedure Act.

B. The board, on its own motion or in response to the petition of any interested person, may request the adoption, amendment, or repeal of a rule pursuant to R.S. 49:953(C).

C. Request by an interested person shall be made on an approved form, which may be obtained from the Teachers' Retirement System of Louisiana upon request of the director.

1. Such petition shall be in writing; and

a. clearly state that it is a petition for adoption, amendment or repeal of a rule;

b. state the name, address, telephone number, and e-mail address of its author;

c. be signed and dated by its author;

d. contain a brief description stating:

i. whether the petition is requesting the adoption, amendment or repeal of a rule;

ii. the need for the adoption, amendment or repeal of the proposed rule;

iii. the specific citation of any legal authority purporting to authorize the adoption, amendment or repeal of the proposed rule, if known; and

iv. the fiscal impact of the adoption, amendment or repeal of the proposed rule, if known.

e. state the reasons or grounds for the proposed adoption, amendment or repeal;

f. contain proposed wording, content or description of the suggested language of a newly proposed rule and/or the suggested language of a proposed amendment to an existing rule;

i. A petition for the repeal of an existing rule shall cite the rule to be repealed. The interested person may attach a copy of the rule with a strike through of all portions proposed to be repealed.

g. contain specific citation to any statute that specifically relates to the content of the requested rule change, if known; and

h. include any data, views or arguments in support of the rule's adoption, amendment, or repeal.

2. The petition for a rule change shall be addressed to the director and shall be mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

3. The director retains sole discretion to grant, deny or defer a petition in whole or in part.

a. The director will consider the petition within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further information is sought, the ninety day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

b. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

c. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

d. The director will consider the petition for reconsideration within 90 days after receipt.

e. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

f. If the petitioner is not satisfied with the determination of the director, the petitioner may request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

4. Nothing herein shall be construed to require the director or the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or format requested by the petitioner.

D. The agency shall conduct a public hearing, at least once every six years, for the purpose of allowing interested persons the opportunity to comment on any rule believed to be contrary to law, outdated, unnecessary, overly complex or burdensome in accordance with R.S. 49:953(C).

1. Written comments by interested persons shall be in the same format as prescribed by Subsection C of this Section and shall be addressed to the director and mailed or hand delivered to Teachers' Retirement System of Louisiana, 8401 United Plaza Blvd., Suite 300, Baton Rouge, LA 70809.

2. The director shall appoint a committee of agency personnel to conduct the public hearing.

a. The committee will submit to the director, within 30 days:

i. the written submission by the interested person;

ii. any statement by the agency explaining the basis and/or rationale for the rule in question; and

iii. any data or evidence by the agency relating to the rule.

b. The director will consider the submission within 90 days after receipt.

i. The director may solicit the petitioner for further information regarding the request. If further information is sought, the 90-day period will commence from the date further information is received or 90 days from the date further information is requested if no response is made by the petitioner.

c. The determination of the director will be stated in writing and mailed, via usual means to the petitioner.

d. If the petitioner is not satisfied with the determination of the director, the petitioner may request a reconsideration within 30 days.

e. The director will consider the petition for reconsideration within 90 days after receipt.

f. The determination of the director regarding the reconsideration will be stated in writing and mailed, via usual means to the petitioner.

g. If the petitioner is not satisfied with the determination of the director, the petitioner shall request an appeal to the board within 30 days.

i. The board will consider the appeal within 90 days after receipt.

ii. The board may defer the ruling on a petition to review the petition further or gather facts related to the petition.

iii. The board retains the discretion to grant or deny the petitioner a hearing.

iv. The determination of the board will be stated in writing and mailed, via usual means to the petitioner.

v. All determinations of the board are final and not appealable.

3. Nothing herein shall be construed to require the board, in granting a petition of adoption, amendment or repeal of a rule, to employ the specific language or format requested by the petitioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11: 826 and 49:953(C).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 45:762 (June 2019).

Dana L. Vicknair
Director

1906#029

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Public Oyster Seed Grounds East of the Mississippi River (LAC 76:VII.511)

The Wildlife and Fisheries Commission has amended LAC 76:VII.511, un-designating a portion of the Public Oyster Seed Grounds East of the Mississippi River. Approximately 40,248 acres in the western portion of the seed grounds shall be set aside for oyster leasing as per provisions of subpart D of Part VII of Louisiana Revised Statutes Title 56, and shall no longer be designated as a seed ground upon commencement of the first lottery phase of the oyster moratorium lifting process pursuant to the provisions of Phase Four of Section 2 of Act 595 of the 2016 Regular Session of the Legislature. Authority to modify the Public Oyster Seed Ground boundaries is vested in the Wildlife and Fisheries Commission by R.S. 56:434(A). This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oyster

§511. Public Oyster Seed Grounds East of the Mississippi River

A. The public oyster seed grounds east of the Mississippi River are described as that portion of state water bottoms hatched on the map below, except as follows:

1. that portion as described in Louisiana Administrative Code (LAC) 76:VII.531.B. (Oyster Lease Relocation) and more particularly described as that area within the following coordinates (North American Datum 1983):

a. South Breton Sound

i. 89 degrees 27 minutes 49.74 seconds W

29 degrees 27 minutes 48.91 seconds N;

ii. 89 degrees 26 minutes 36.54 seconds W

29 degrees 27 minutes 48.89 seconds N;

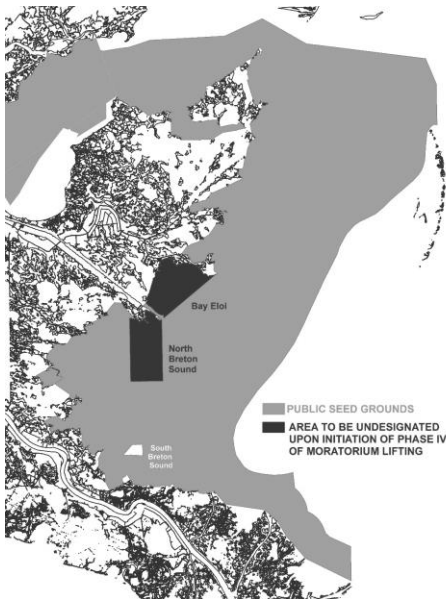
iii. 89 degrees 26 minutes 36.47 seconds W

29 degrees 26 minutes 38.48 seconds N;

- iv. 89 degrees 28 minutes 04.69 seconds W
29 degrees 26 minutes 43.66 seconds N;
- v. 89 degrees 28 minutes 58.49 seconds W
29 degrees 26 minutes 41.69 seconds N.

2. The below described areas, comprising approximately 40,248 acres, shall no longer be designated as a seed ground and shall be set aside for oyster leasing as per provisions of subpart D of Part VII of Louisiana Revised Statutes Title 56, upon commencement of the first lottery phase of the oyster moratorium lifting process pursuant to the provisions of Phase Four of Section 2 of Act 595 of the 2016 Regular Session of the Legislature:

- a. North Breton Sound
 - i. 89 degrees 24 minutes 00.000 seconds W
29 degrees 41 minutes 00.468 seconds N;
 - ii. 89 degrees 24 minutes 00.000 seconds W
29 degrees 34 minutes 30.000 seconds N;
 - iii. 89 degrees 27 minutes 56.000 seconds W
29 degrees 34 minutes 30.000 seconds N;
 - iv. 89 degrees 27 minutes 56.000 seconds W
29 degrees 41 minutes 12.400 seconds N;
 - v. following the current public oyster seed ground boundary line and shorelines back to point of beginning.
- b. Bay Eloi
 - i. 89 degrees 17 minutes 12.190 seconds W
29 degrees 45 minutes 49.160 seconds N;
 - ii. 89 degrees 23 minutes 46.500 seconds W
29 degrees 41 minutes 09.948 seconds N;
 - iii. following the current public oyster seed ground boundary line and shorelines back to point of beginning.



AUTHORITY NOTE: Promulgated in accordance with R.S. 56:434.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Office of Coastal and Marine Resources, LR 14:716 (October 1988), amended by the Department of Wildlife

and Fisheries, Wildlife and Fisheries Commission, LR 37:1624 (June 2011), LR 45:763 (June 2019).

Jack Montoucet
Secretary

1906#028

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigation Division

Recycling Tax Credit Reduction (LAC 33:VII.10415)(SW065)

Editor's Note: Subsection A of §10415 is being repromulgated to correct a printing error. The original Rule may be viewed in its entirety on page 658 of the May 20, 2019 *Louisiana Register*.

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures has amended the Solid Waste regulations, LAC 33:VII.10415 (SW065).

This Rule reduces the amount of the credit, related to purchase of qualified new recycling manufacturing, process equipment, and/or a qualified service contract pertaining to equipment, from 20 to 14 percent. The Rule implements the change in R.S. 47:6055.

Title 33

ENVIRONMENTAL QUALITY

Part VII. Solid Waste

Subpart 2. Recycling

Chapter 104. Credit for New Recycling Manufacturing or Process Equipment and/or Service Contracts

§10415. Amount of Credit

A. The maximum total credit related to a purchase of qualified new recycling manufacturing or process equipment and/or a qualified service contract that may be allowable for all taxable periods is 14 percent of the cost of the qualified recycling equipment or qualified service contract, less the amount of any other Louisiana tax credits for the purchase of the equipment or the cost of the service contract. The total tax credits allowed under this Chapter shall be limited to five million dollars per tax year. Example:

* * *

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6005.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 18:842 (August 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 33:2633 (December 2007), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, amended LR 45:658 (May 2019), repromulgated, LR 46:764 (June 2019).

Herman Robinson
General Counsel

1906#046

Notices of Intent

NOTICE OF INTENT

Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences

Citrus Greening Quarantine (LAC 7:XV.127)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that Department of Agriculture and Forestry (department) to adopt the rule set forth below expanding a previously established quarantine for citrus greening disease (CG), also known as Huanglongbing disease of citrus, caused by the bacterial pathogen *Candidatus Liberibacter* spp. The state entomologist has determined that CG has been found in this state and may be prevented, controlled, or eradicated by quarantine. The existing quarantine presently includes the parishes of Orleans, Washington, and Jefferson. This proposed rule expands the quarantine to include St. Bernard and Plaquemines Parishes.

CG poses an imminent peril to the health and welfare of the Louisiana commercial citrus industry due to its ability to infest rutaceous plants. This industry has a farm value of \$2.4 - \$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state. CG renders the fruit unmarketable and ultimately causes death of infested plants. Failure to prevent, control, or eradicate this pest threatens to destroy Louisiana's commercial citrus industry and the growing and harvesting of citrus by citizens of Louisiana for their own private use.

Louisiana's commercial citrus industry adds \$7.5 - \$10 million dollars to the state's agriculture economy each year. Sales of citrus trees and plants by nursery stock dealers to private individuals also are important to the state's economy. The loss of the state's commercial citrus industry and privately owned citrus trees and fruit would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of CG in Louisiana outside of the current areas where this disease has already been found.

For these reasons, the outbreak CG in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and the state's commercial and private citrus industry. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.127 to include St. Bernard and Plaquemines Parishes.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter B. Nursery Stock Quarantines

§127. Citrus Nursery Stock, Scions and Budwood

A.- D.1. ...

2. Quarantined Areas. The quarantined areas in this state are the parishes of Orleans, Washington, Jefferson, St. Bernard, Plaquemines, and any other areas found to be infested with CG. The declaration of any other specific parishes or areas shall be published in the official journal of the state and in the *Louisiana Register*.

D.3. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Agricultural and Environmental Sciences, LR 11:320 (April 1985), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 40:1308 (July 2014), LR 42:730 (May 2016), LR 44:439 (March 2018), LR 45:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on July 10, 2019.

Mike Strain DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Citrus Greening Quarantine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in additional savings or expenditures for state or local governmental units. The proposed rule change adds St. Bernard and Plaquemines parishes to the list of parishes quarantined for Citrus Greening (CG).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Citrus nursery stock producers will be directly affected by the proposed rule. The proposed rule adds St. Bernard and Plaquemines parishes to the list of parishes quarantined for CG. Therefore, citrus nursery stock cannot be shipped outside of St. Bernard and Plaquemines parishes unless it is going to another parish also under the CG quarantine. The proposed rule will require citrus nursery stock producers selling, moving, or distributing citrus nursery stock within a CG quarantined area to be tagged with a label warning the consumer about the movement restrictions under the quarantine. The citrus nursery stock producer will be responsible for the cost of the label/tag. A survey of citrus nursery stock producers showed the average price of a tag is 5 cents. Limiting the spread of CG will protect Louisiana's citrus industry, which currently has a farm value of \$2.4 - \$5 million in southeastern Louisiana in the form of citrus nursery stock, and \$5.1 million in the form of commercial citrus fruit in the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Dane K. Morgan
Assistant Commissioner
1906#023

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Emerald Ash Borer Quarantine (LAC 7:XV.167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) intends to adopt the Rule set forth below, expanding a previously established quarantine for the following pest: emerald ash borer (EAB), *Agrilus planipennis* Fairmaire. The existing quarantine presently includes the parishes of Bienville, Bossier, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster. This proposed Rule expands the quarantine to include Caddo Parish.

EAB poses an imminent peril to the health and welfare of Louisiana forests, commercial and private forestry/wood product industries, and nursery growers due to its ability to infest ash trees. In 2013, the wholesale value of woody ornamental sales for nursery growers in the state was \$62.6 million, a portion of which is comprised of sales of ash trees (Louisiana State University AgCenter 2013 Louisiana Summary, Agriculture and Natural Resources). Louisiana's forests and forestry/wood products industries generated an output industry production value of \$10.86 billion in 2012, a portion of which is comprised of ash trees and ash tree products (Louisiana State University AgCenter publication 3367-G, 2015). Sales of ash firewood by retail and wholesale suppliers to private individuals also are important to the state's economy.

Natural spread of EAB is limited to relatively short distances. However, without restriction, EAB can spread through human-assisted means over long distances via infested ash nursery stock, ash logs/timber and cut firewood. Once an ash tree is infested, it experiences twig dieback and tree decline. Tree death occurs within a few years. Failure to prevent, control, or eradicate this pest threatens to damage Louisiana's commercial ash tree nursery industry, and over time this pest poses a threat to destroy the majority of ash in our state, both commercial and residential. The loss of the state's commercial nursery-grown ash trees, forestry/wood ash products and even residential ash trees would be devastating to the state's economy and to its private citizens. The quarantine established by this emergency regulation is necessary to prevent the spread of EAB to all areas in Louisiana where ash may exist, outside of the current areas where this pest has been found.

For these reasons, the presence of EAB in Louisiana presents an imminent peril to the health, safety and welfare of Louisiana's citizens and forests, the state's commercial and private forestry/wood product industries, and nursery growers. As a result of this imminent peril, the Department of Agriculture and Forestry and state entomologist hereby exercise its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by expanding the quarantine in LAC 7:XV.167 to include Caddo Parish.

Title 7

AGRICULTURE AND ANIMALS

Part XV. Plant Protection and Quarantine

Chapter 1. Crop Pests and Diseases

Subchapter F. Emerald Ash Borer Quarantine

§167. Emerald Ash Borer Quarantine

A. - B. ...

1. The entire parishes of Bienville, Bossier, Caddo, Claiborne, Jackson, Morehouse, Lincoln, Ouachita, Union and Webster.

B.2. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1652, 3:1653.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 41:2577 (December 2015), amended LR 43:245 (February 2017), amended LR 44:1589 (September 2018) LR 45:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule should have no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions, and arguments regarding the proposed action. Written submissions are to be directed to Ansel Rankins, Director of the Horticulture Commission, Department of Agriculture and Forestry, 5825 Florida Boulevard, Baton Rouge, LA 70806 and must be received no later than 4 p.m. on the July 10, 2019.

Mike Strain DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Emerald Ash Borer Quarantine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will not result in additional savings or expenditures for state or local governmental units. The proposed rule expands an existing quarantine on regulated articles that are susceptible of infestation by the emerald ash borer ("EAB"), *Agrilus planipennis Fairmaire* to include Caddo Parish in addition to the Bienville, Bossier, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster Parishes. The Louisiana Department of Agriculture and Forestry ("LDAF") anticipates the existing personnel in Bienville, Jackson, Morehouse, and Ouachita Parishes will be able to carry out the additional inspection duties as a result of the proposed rule. These additional inspections are not anticipated to require additional resources and will be absorbed within LDAF's existing appropriation.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not effect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not create an additional cost, but adds Caddo Parish to an existing quarantine in Bienville, Bossier, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union, and Webster Parishes on regulated articles that are susceptible of infestation by the emerald ash borer ("EAB"), *Agrilus planipennis Fairmaire*. Any entities with regulated articles subject to the quarantine—such as ash nursery stock, ash logs/timber and cut firewood—in the quarantined areas will not be permitted to move those regulated articles from quarantined areas to non-quarantined areas without a certificate or limited permit issued by the LDAF. There is no fee for the certificate or permit. The only stoppages entities moving regulated articles will be able to make while moving regulated articles from non-quarantined areas will be for traffic conditions and fueling stops.

The proposed rule change is intended to limit the spread of EAB, which will provide economic benefits to harvesters of ash logs and timber by preventing the spread of the pest to areas that are not impacted.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition and employment.

Dane K. Morgan
Assistant Commissioner
1906#022

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Guava Root Knot Quarantine (LAC 7:XV.171)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) intends to adopt the rule set forth below, establishing a quarantine for the following pest: Guava Root Knot Nematode (GRKN), *Meloidogyne enterolobii*. The state entomologist has determined that GRKN has been found in this state and may be prevented, controlled, or eradicated by quarantine. This quarantine was first established by emergency rule published at LR 45:2, p. 194.

Guava Root Knot Nematode (GRKN) poses an imminent threat to the health and welfare of Louisiana's sweet potato, sugarcane, cotton, and soybean industries. In 2017, the total value of sweet potato production, including value added was \$92.6 million (Louisiana State University AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Sugarcane is also a host for GRKN. The gross farm value for sugarcane in Louisiana was \$589.3 million and the total value of the sugarcane crop to producers, processors, etc. at the first processing level was \$989.5 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for cotton in Louisiana was \$139.7 million and the total value of cotton production was \$210.1 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). The gross farm value for soybeans in Louisiana was \$679.4 million and when value-added activities are included the total economic impact of the soybean industry is estimated at \$798.2 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

In addition to the aforementioned crops, GRKN is also a threat to the nursery and commercial vegetable industries. The gross value of commercial nursery production was \$107.1 million and the total value of nursery production was \$166.04 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources). Commercial vegetable production's gross value in 2017 was \$79.4 million and the total value of commercial vegetable production was \$186.7 million (LSU AgCenter 2017 Louisiana Summary, Agriculture and Natural Resources).

Guava Root Knot Nematode has only been positively identified in a very small area of Louisiana but this pest could impact almost every agriculture related industry in Louisiana if it were to become established. GRKN has a wide host range of crops and also weeds that it infects. It also has a high rate of reproduction so the use of fumigants would only temporarily reduce the nematode's populations. In addition, GRKN has been found to attack the native Southern root knot nematode resistant varieties of cotton, tomato, pepper, soybean and sweet potato.

The natural dispersal of GRKN is limited to very short distances. However without quarantine restrictions, GRKN could spread through human assisted means over long distances through GRK infested sweet potatoes, nursery stock, and commercial farm equipment.

In other states where GRKN is found, sweet potatoes are not harvested because the potatoes are of such poor quality and shape that they cannot be sold. Also in some instances, only certain crops can be grown in GRKN infested soil limiting the farmer's ability to diversify their crops and markets.

For these reasons the presence of GRKN in Louisiana presents a peril to the integrity and stability of Louisiana's agriculture industries. As a result of this imminent peril, the Department of Agriculture and Forestry hereby exercises its full and plenary power pursuant to R.S. 3:1652 to deal with crop and fruit pests and contagious and infectious crop and fruit diseases by imposing the quarantines set out in the regulations proposed herein.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Ansel Rankins,

Director of the Horticulture Commission, Department of Agriculture & Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on July 10, 2019.

Mike Strain DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Guava Root Knot Quarantine

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to have any fiscal impact to the Louisiana Department of Agriculture and Forestry ("LDAF") other than the cost of promulgation for FY 19 to place a quarantine on all sweet potatoes, nursery stock, and commercial farm equipment from the states of Florida, North Carolina, and South Carolina because the state entomologist has found the existence of the Guava Root Knot Nematode, *Meloidogyne enterolobii*, in these states.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have any effect on revenue collections for state or local government entities.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to create any costs, but may help prevent the spread of GRKN to other parts of the state.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change place a quarantine on all sweet potatoes, nursery stock, and commercial farm equipment from the states of Florida, North Carolina, and South Carolina due to the existence of Guava Root Knot Nematode, *Meloidogyne enterolobii*, in these states. This may increase the demand of Louisiana sweet potatoes and any other state that grows sweet potatoes.

Dane K. Morgan
Assistant Commissioner
1905#021

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Agriculture and Forestry Office of Forestry

Logos for State Products (LAC 7:V.2901, 2903, and 2905)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority set forth in R.S. 3:1652, notice is hereby given that the Department of Agriculture and Forestry (department) intends to revise LAC 7:V.2901, 2903 and 2905 in order to create standards for the use of new logos for Certified Louisiana Craft Beverage and Certified Louisiana Farm to Table designations.

Title 7

AGRICULTURE AND ANIMALS

Part V. Advertising, Marketing and Processing

Chapter 29. Logos for State Products

§2901. Purpose; Definitions

A. This Chapter is adopted pursuant to R.S. 3:4721 et seq., and shall govern the department's logo program.

B. For purposes of this Chapter, the following terms shall have the meaning hereafter ascribed to them, unless the context clearly indicates otherwise.

Commissioner—the commissioner of the Louisiana Department of Agriculture and Forestry.

Department—the Louisiana Department of Agriculture and Forestry.

License—written authorization from the Louisiana Department of Agriculture and Forestry for the non-exclusive use of the logo.

Licensee—applicant who applied to the department for a license to use the logo(s) and whose application was approved.

Logo—the logos adopted by the department pursuant to R.S. 3:4721 to promote products made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana. The logos include:

- certified Louisiana;
- certified Louisiana Cajun;
- certified Louisiana Creole;
- certified Louisiana Farm to Table; and
- certified Louisiana Craft Beverage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:440 (March 2018), LR 45:

§2903. Eligibility

A. The department shall have sole discretion to determine whether an agricultural product, restaurant or agritourism activity is eligible to be labeled with one of the certified logos. To be eligible, a company must possess and be in compliance with all applicable state and federal permits, licenses and laws.

B. In order for an agricultural product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana.

C. In order for an agricultural product to be eligible to use the certified Louisiana Creole logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

D. In order for an agricultural product to be eligible to use the certified Louisiana Cajun logo, the product must be representative of the culture that is generally of Acadian descent and be at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

E. In order for an agricultural product to be eligible to use certified Louisiana Farm to Table logo, the product must be produced and sourced as locally as possible, within

Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

F. In order for a craft beverage product to be eligible to use the certified Louisiana Craft Beverage logo, the product must be crafted, bottled, brewed, vinified and/or distilled in the state of Louisiana. The use of this logo shall be applicable to beer, wine, spirits, and craft beverages.

G. In order for a restaurant to be eligible to use the certified Louisiana Farm to Table logo, a majority of the restaurant's raw and value added products shall be produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

H. In order for an establishment that serves alcoholic beverages to be eligible to use the certified Louisiana Craft Beverage logo, the establishment must serve at least one certified Louisiana Craft Beverage beer, wine, and spirit on a regular basis. If an establishment that serves alcoholic beverages does not serve all three categories (beer, wine, and spirits), it must serve at least three certified Louisiana Craft Beverages from the categories that it does serve in order to be eligible to use the Louisiana Craft Beverage logo.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:440 (March 2018), LR 45:

§2905. Application Process and Product Verification

A. Applications for use of the logos shall be made in writing on a form prescribed by the department or by completing an online application on the department's website.

B. In order for a product to be eligible for inclusion in the logo program, it must be made, grown, manufactured, processed, produced or substantially transformed in the state of Louisiana.

C. In order for a product to be eligible to use the certified Louisiana Creole logo, at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

D. In order for an agricultural product to be eligible to use the certified Louisiana Cajun logo, the product must be representative of the culture that is generally of Acadian descent and be at least 50 percent of the product must be made, grown, produced, manufactured, processed or packed in Louisiana.

E. In order for a restaurant to be eligible to use the certified farm to table logo, a majority of the restaurant's raw and value added products shall be produced and sourced as locally as possible, within Louisiana and or less than 200 miles from its origin, which means going directly from the farm to the table.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4721.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 42:393 (March 2016), repromulgated LR 42:540 (April 2016), amended LR 44:441 (March 2018), LR 45:

Family Impact Statement

The proposed Rule does not have any known or foreseeable impact on family formation, stability, and

autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule does not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule does not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, data, opinions and arguments regarding the proposed Rule. Written submissions must be directed to Deana Erdey, Louisiana Department of Agriculture and Forestry, 5825 Florida Blvd., Suite 3002, Baton Rouge, LA 70806 and must be received no later than 12 p.m. on July 20, 2019. No preamble is available.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Logos for State Products

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes modify the Logos for State Products program rules that are already in place. The proposed rule changes add new designations for certified Louisiana Craft Beverage products and certified Louisiana Farm to Table products, as well as restaurants serving those certified products

within the existing Logos for State Products program within the LA Department of Agriculture and Forestry (LDAF). These new designations will utilize the existing personnel of the Logos for State Products program who will assume its administration, including determining eligibility and carrying out the application process. Expenditures may increase more than anticipated due to the possibility of LDAF holding adjudicatory hearings in the event a program participant has their right to participate revoked or suspended. Expenditures related to the program will be offset by LDAF's ability to charge fees for application and participation in the program.

Revisions to Rule 2901 add the certified Louisiana Craft Beverage category to the list of logos available in the Logo Program. Revisions to Rule 2903 add eligibility requirements for the certified Louisiana Craft Beverage and certified Louisiana Farm to Table products and for establishments serving certified Louisiana Craft Beverage products. Revisions to Rule 2903 further specify that eligible products must be agricultural in nature. Revisions to Rule 2905 provide that applications for the use of logos may be made by completing an online application on the department's website and further deletes the requirements that all applications be signed and notarized.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will result in an indeterminable revenue increase for the Department of Agriculture and Forestry. Applicants to the LDAF Logos for State Products program must remit a \$25 application fee to the department. If LDAF approves an application, the applicant must then pay a \$30 registration fee to use the logo on its product for the first year, a total first-year cost of \$55. All registrations expire on December 31 and must be renewed annually. Annual renewals require payment of an annual renewal fee of \$30 if an entity wishes to keep a registration active. All revenues derived from application and registration fees will fund expenditures related to the program.

The annual revenue increase is indeterminable because LDAF is unable to know the number of applications for the logos for these new categories in the Logo Program that it will process each year.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Entities choosing to participate in the program will have to fill out an application, pay a one-time application fee of \$25, and then pay a registration fee of \$30 if their application is approved. Applications expire December 31st of every year and must be renewed annually and accompanied with a \$30 renewal fee. Participating entities may realize unspecific economic benefits by attaining the right to include the new logos on manufactured products and establishments, including certified Louisiana Craft Beverage and certified Louisiana Farm to Table.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not have a direct effect on competition and employment.

Dane K. Morgan
Assistant Commissioner
1906#019

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Children and Family Services Division of Child Welfare

Foster Care
(LAC 67:V.4101)

In accordance with the provisions of the Administrative Procedure Act R.S. 49:953 (A), the Department of Children and Family Services (DCFS), proposes to amend LAC 67:V, Subpart 5 Foster Care, Chapter 41 Guardianship Subsidy Program, Section 4101 Subsidizing Guardianship Arrangements for Children in Foster Care.

Pursuant to SEC. 473. [42 U.S.C. 673], amendment of Section 4101 of this code is necessary to ensure children in foster care in Louisiana are afforded the full benefits possible in achieving permanency through guardianship. Additionally, with regard to federal Public Law 115-123 enacted February 9, 2018, the benefits available through the guardianship subsidy are being expanded.

The amendment will allow the department to implement this opportunity for establishing more stable, permanent care options for children in foster care, and stabilizing situations where guardians of children who have exited foster care and achieved the legal age of majority can continue to receive support as long as the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's Extended Foster Care program.

Title 67

SOCIAL SERVICES

Part V. Child Welfare

Subpart 5. Foster Care

Chapter 41. Guardianship Subsidy Program

§4101. Subsidizing Guardianship Arrangements for Children in Foster Care

A. Overview of Program Purpose

1. The Subsidized Guardianship Program enables the Department of Children and Family Services (DCFS) to make payments to certified relative and fictive kin caregivers as well as certified caregivers with a significant familial bond with the child on behalf of a child who otherwise might not be able to achieve permanency outside of department custody because of special needs or other circumstances. Subsidy payments shall be limited to child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, immediate unsubsidized custody to a relative or other caregiver, or adoption being determined unfeasible for the child. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has a significant familial bond; with whom it would be in the child's best interest to remain until the age of majority, and when the kinship placement provider or other caregiver with a

significant familial bond becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship placement or placement with the other caregiver with a significant familial bond for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The guardianship subsidy also applies to successor guardian(s) who meet the following criteria:

a. the successor guardian is named in the guardianship subsidy agreement with DCFS;

b. the successor guardian and all adult household members have satisfactorily completed national fingerprint based criminal and child abuse/neglect background clearances; and

c. guardianship is transferred by a court to the successor guardian in accordance with *Louisiana Children's Code* articles 718 through 724.1.

2. The prospective guardianship family must meet basic foster care certification eligibility requirements or the successor guardianship criteria in all respects except for the ability to assume complete financial responsibility for the child's care.

3. An extended guardianship subsidy may be provided to the guardians or successor guardians of a child who initially received a guardianship subsidy from DCFS after achieving the age of 16, but prior to achieving the age of 18, when the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program.

B. Types of Subsidy Payments. The child may be subsidized for the following services up to age 18.

1. Maintenance. The maintenance subsidy includes basic living expenses such as board, room, clothing, spending money, and ordinary medical costs. The maintenance subsidy may be ongoing until the child reaches age 18, but must be renewed on a yearly basis. The maintenance subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. This extended maintenance subsidy must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. This renewal will be dependent upon the child remaining in the care of the guardian or successor guardian with whom the subsidy agreement was established. The amount of payment shall not exceed 80 percent of the state's regular foster care board rate based on the monthly flat rate payments of the regular foster care board rate for the corresponding age group. Monthly maintenance payments shall not be based on subsidized foster care arrangements such as specialized foster care, alternate family care, or therapeutic foster care. Changes in the maintenance subsidy rate routinely only occur once a year and the adjustment is typically made at the time of the subsidy renewal, or due to a change in the child's age. Adjustments to the maintenance subsidy rate may also occur due to availability of funds,

legislative changes or adjustments to the regular foster care board rate.

2. Special Board Rate. Foster parents entering into a guardianship agreement for a foster child for whom a special board rate was received during the foster care episode may request up to a maximum of \$240 which is 80 percent of the special board rate amount of \$300. This is only provided if the care and needs of the child in the guardianship arrangement warrant this same special board rate. The special board rate subsidy may be renewed on the child's eighteenth birthday and extended up to age 21 if the guardian continues to provide care for the child and the guardian remains responsible for financial support of the child, if the child meets the same eligibility criteria as children eligible for the department's extended foster care program. An extended special board subsidy for a child ages 18 to 21 must be reviewed quarterly and may be renewed annually as long as the child continues to meet the same eligibility criteria as children eligible for the department's extended foster care program. The continued need for the special board rate shall be reviewed at the time of the quarterly reviews. The review shall consist of a determination of whether the same level of specialized care by the guardian, for which the special board rate was being provided at the time of the initial subsidy agreement, continues to be necessary to meet the child's needs. Any reduction in the level of care required by the guardian or successor guardian should result in a decrease in the amount of special board rate compensation to the guardian.

3. Special Services

a. The special services subsidy is time limited and in some cases may be a one-time payment. It is the special assistance given to handle an anticipated expense when no other family or community resource is available. If needed, it can be offered in addition to the maintenance and special board rate subsidy. The special services subsidy must be established as a part of the initial guardianship subsidy agreement, and may not be provided or renegotiated based on any circumstances which develop or issues identified after that point. Special services subsidies include the following types of needs:

i. special medical costs deemed medically necessary for the daily functioning of the child for any condition existing prior to the date of the initial judgment establishing guardianship with the kinship caregiver or other caregiver with a significant familial bond and not covered by Medicaid or other insurance;

ii. ongoing therapeutic treatment costs to complete current therapy and future treatment costs on a time limited basis up to 18 years of age or for the duration of an extended subsidy for any eligible child, as department resources allow, related to the abuse/neglect received by the child and impacting the child's capacity to function effectively as part of the child's educational, family or social environment. This does not include the cost of residential care or psychiatric hospitalization, nor does it include therapeutic intervention for the sole purpose of providing behavior management assistance to the guardian;

iii. legal and court costs to the potential guardian family up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible for establishing the guardianship arrangement. This

service is only available for costs distinct and separate from the routine costs of the child in need of care proceedings to provide for costs to the potential guardian in establishing the guardianship arrangement. This legal and/or court fee will be provided as a non-reoccurring, one-time payment for each guardianship episode.

b. **Medicaid Eligibility.** The child remains eligible for Medicaid coverage up to 18 years of age when entering a guardianship subsidy arrangement from foster care. This coverage will be eligible utilizing title IV-E federal benefits if the child was title IV-E eligible at the time of the subsidy arrangement. For children not eligible for title IV-E, this coverage will be provided through title XIX federal benefits or state general funds. For a Louisiana child who is placed out of state in a potential guardianship placement or who moves to another state after the establishment of a guardianship subsidy, if the child is eligible for title IV-E guardianship subsidy payments, the child is also categorically eligible for Medicaid in the state in which the child resides whether that state participates in the title IV-E Guardianship Subsidy Assistance Program or not.

c. **Chaffee Foster Care Independent Living Skills Training and Education Training Voucher Eligibility.** The child is eligible for consideration for participation in the Chaffee Foster Care Independent Living Skills Training and for Education Training Vouchers if the child initially enters a guardianship arrangement from foster care (not a successor guardianship) after reaching 16 years of age, as long as the child meets any other program eligibility requirements.

C. Exploration of Guardianship Resources

1. Before a child is determined by the Department of Children and Family Services (DCFS) as eligible for a guardianship subsidy, it must be determined the child cannot be reunited with the parents, and resources for adoptive placement must be explored by the child's worker. If the kinship family or other caretakers with a significant familial bond with the child and with whom the child is placed refuses to adopt the child or is unable to be certified as an adoptive family, the department has to show efforts to achieve the more permanent case goal of adoption for the child and demonstrate the benefits of maintaining the child in the placement in a guardianship arrangement as opposed to ongoing efforts in pursuing adoption or any other long term permanency arrangement. It is also necessary for the child's worker to discuss plans for a guardianship arrangement with the child and document the outcome of that discussion with the child, including agreement with that plan by any child 14 years of age up to 18 years of age. Lack of agreement by any child 14 years of age up to 18 years of age should be an ongoing topic of counseling regarding the benefits of the arrangement between the worker and the child, until a permanency option is achieved for the child or until the child attains 18 years of age.

2. Whenever an eligible child in the custody of DCFS is legally placed based on the interstate compact on the placement of children guidelines with a certified kinship caregiver or other certified caretaker with a significant familial bond with the child in another state, the family shall be eligible for a guardianship subsidy under the same conditions as Louisiana residents.

D. Eligibility Criteria

1. The DCFS, Guardianship Subsidy Program, will determine the appropriateness of subsidy benefits, the type of subsidy, and, the level of the subsidy. An agreement form between the DCFS and the prospective guardianship parent(s), with clearly delineated terms, including designation of a successor guardian, if desired, must be signed prior to the granting of the final decree for guardianship. This agreement will be reviewed on an annual basis thereafter by the DCFS to insure ongoing eligibility. Any extended guardianship subsidy for a child who has attained 18 years of age must be reviewed quarterly to ascertain ongoing eligibility.

2. Subsidy payments shall be limited to a child(ren) for whom guardianship is indicated due to other more permanent options such as reunification with the parents, or adoption being determined unfeasible for or not in the best interests of the child. The exception would be any child who has been receiving a subsidy payment and enters a successor guardianship. A more permanent option for placement is not required as these children do not re-enter state custody.

3. The guardianship subsidy applies only to a child(ren) for whom the DCFS holds legal custody, only to potential caregivers with whom the child has an established familial or emotional relationship which it is deemed to be in the child's best interest to continue, and when the kinship placement provider or other caregiver with a significant familial bond with the child becomes a certified foster caregiver according to the certification standards of the state, and, the child(ren) remains in the certified kinship/caregiver placement for at least six consecutive months during the current foster care episode prior to entering the guardianship subsidy arrangement. The exception would be children entering a successor guardianship. There is no requirement for the child to be in DCFS custody, to be with a caregiver with an established relationship, for certification of the caregiver, nor for a child to be placed with the successor guardian for any length of time prior to entering the guardianship subsidy arrangement.

4. A family is considered eligible for participation in the Guardianship Subsidy Program if they are related to the child or family of the child through blood or marriage or if there exists a fictive kin relationship, which is defined as a relationship with those individuals connected to an individual child or the family of that child through bonds of affection, concern, obligation, and/or responsibility prior to the child's original entry into the custody of the state, and the individual(s) are considered by the child or family to hold the same level of relationship with the child or family as those individuals related by blood or marriage. The exception would be an individual considered for the successor guardianship named by the guardian in the guardianship subsidy agreement with DCFS. Additionally, a family is eligible for participation in the Guardianship Subsidy Program if they have a significant familial bond with the child. This term is used to describe individuals with whom the child has a very close affinity who may or may not have been known to the child or his/her family prior to foster care entry. It is also intended to convey the importance of the relationship to the well-being of the child in

maintaining a connection into the future. The child demonstrates this bond through a strong attachment to the caregiver. A family with whom the child shares a significant familial bond could potentially include foster parents who are unable or unwilling to establish an adoptive relationship with the child in spite of DCFS efforts to overcome barriers to adoption, yet who are willing to commit to long term permanency through guardianship for the child. This is demonstrated by non-related family who have a significant and positive relationship with the child and who have a strong commitment to caring permanently for the child.

E. Effects of Deaths of Guardians on Guardianship Subsidy

1. When a child has been placed in an approved guardianship placement with a guardianship subsidy agreement in effect and the guardian dies prior to the child reaching the age of majority, the child's eligibility for a guardianship subsidy shall not be affected if a successor guardian was named in the original guardianship subsidy agreement. The child may remain in the care of a duly designated tutor/guardian as established by the guardian family prior to their death, without further involvement of the department. If the duly designated tutor/guardian requires financial assistance to maintain the care of the child and the individual was named in the guardianship subsidy agreement as a successor guardian, it is not necessary for the child to return to state custody and those individuals to become certified foster parents. Successor guardians named in the original guardianship subsidy agreement who take over financial responsibility for a child for whom the original guardians have been receiving an extended guardianship subsidy and the original guardians have died may receive the extended guardianship subsidy as well as long as the child continues to meet eligibility requirements up to the child achieving age 21.

2. If no successor guardian was named in the guardianship subsidy agreement, any individual otherwise legally designated as a tutor/guardian for the child and requiring financial assistance to sustain the care of the child would have to return the child to state custody and those individuals would have to become certified foster parents. Adoption of the child by the family should be explored as well, since adoption is a more permanent relationship for the child and family. If the family and home are determined to be safe for the care of the child through assessment of the home environment, fingerprint based criminal records clearance, and child abuse/neglect clearances, the child may remain in the care of the family while they are certified.

3. Where a guardianship subsidy agreement is in effect and the guardians both die prior to the child reaching the age of majority, the subsidy agreement will end. The child may remain in the care of a duly designated tutor/guardian as established by the family prior to their death, without further involvement of the department.

4.a. If the designated tutor/guardian requires financial assistance to maintain the care of the child, it will be necessary for the child to return to state custody and those individuals to become certified as foster parents and provide care to the child six consecutive months after certification and prior to entering into a guardianship subsidy agreement

with the department. During the process of becoming certified as foster parents the family may continue to provide care to the child, as long as they are determined to be safe caregivers through a minimum of:

i. department assessment of the home environment;

ii. national fingerprint based criminal records clearances on all adults in the home; and

iii. child abuse/neglect clearances on all adults in the home.

b. Adoption of the child by the family will be explored by the department as well. There can be no financial support of the child by the child welfare agency while being cared for by the family until such family has been certified, other than incidental expenditures routinely reimbursed to other non-certified caregivers of children in foster care. Each guardianship arrangement is considered a new episode. Therefore, the department may provide legal and court costs to support the establishment of this new legal guardianship arrangement between the potential guardian and the child up to \$1000 for children who are not title IV-E eligible and up to \$2000 for children who are title IV-E eligible. No legal or court costs are provided for any guardianship arrangement established on or after the child's eighteenth birthday.

AUTHORITY NOTE: Promulgated in accordance with SEC. 473, [42 U.S.C. 673], and P.L. 115-123.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 36:552 (March 2010), amended by the Department of Children and Family Services, Division of Programs, Child Welfare Section, LR 41:2308 (November 2015), amended by the Department of Children and Family Services, Child Welfare, LR 45:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through, July 29, 2019, to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA, 70821.

Public Hearing

A public hearing on the proposed Rule will be held on July 29, 2019 at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special

services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Foster Care**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule is anticipated to increase the expenses of DCFS by \$30,568 (\$16,812 SGF and \$13,756 Federal Funds) in FY 20 and \$59,608 (\$32,843 SGF and \$26,765 Federal Funds) in FY 21, which will be annualized in future fiscal years.

This proposed rule change extends guardianship assistance to the age of 21 for certain youth that entered guardianship at age 16 or over. The average cost to provide guardianship assistance is \$382.10 per month per child. DCFS anticipates extending guardianship assistance to eight youths in FY 20 and thirteen youths in FY 21. The projected cost in FY 20 is \$30,568 (8 youths x 10 months x 382.10 per month) and \$59,608 in FY 21 (13 youths x 12 months x 382.10 per month).

Extended guardianship assistance is funded with 55% state funds and 45% Title IV-E federal funds.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

Extended guardianship assistance is funded with 45% federal IV-E funds. Therefore, the proposed rule change will result in an increase in Title IV-E federal funds collections for DCFS in the amount of \$13,756 in FY 20 and \$26,765 in FY 21, which will be annualized in future fiscal years.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The economic benefit to youths under guardianship and their caregivers is continued financial support of an average of \$382.10 per month until the youth reaches the age of 21.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed rule change is not anticipated to have an effect on competition. However, the continued financial support for the care of these youth will help the families in continuing to guide these youth in developing the potential to become employable and add to the state workforce/tax base.

Rhenda Hodnett
Assistant Secretary
1906#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana’s IEP Handbook for Students
with Exceptionalities (LAC 28:XCVII.503)

Under the authority granted in R.S. 17:6 and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education proposes to amend *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities*. The proposed revisions provide technical

edits including references to outdated assessments and standards.

**Title 28
EDUCATION**

**Part XCVII. Bulletin 1530—Louisiana’s IEP Handbook
for Students with Exceptionalities**

Chapter 5. Participation in Statewide Assessments

§503. Types of Alternate Assessments

A. LEAP alternate assessment (alternate assessment), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. The alternate assessment is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Connectors standards.

B. - B.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:535 (March 2015), LR 45:527 (April 2019), LR 45:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word *poverty* means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, July 10, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no fiscal implications for state or local governmental units related to the proposed revisions. The proposed policy revisions provide technical edits including references to outdated assessments and standards.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed policy revisions will not result in costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1906#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Bayou Chene DO Criterion
(LAC 33:IX.1123)(WQ101)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1123, Table 3 (WQ101).

This Rule will classify subsegment 050603 (Bayou Chene-From headwaters to Lacassine Bayou; includes Bayou Grand Marais) as naturally dystrophic waters with a seasonal dissolved oxygen criteria of 5 mg/L December-February and 3 mg/L March-November. A Use Attainability Analysis (UAA) was conducted in the Mermentau River Basin in 1998, on six named streams which provided the basis for a revision to the dissolved oxygen (DO) criteria and classification as naturally dystrophic waters for those streams. An addendum to the UAA for four additional streams followed in 1999. This Rule results from a second addendum to the 1998 Mermentau River Basin UAA. The Bayou Chene subsegment will be classified as naturally dystrophic with a seasonal DO criteria of 5 mg/L December-February and 3 mg/L March-November.

The basis and rationale for this Rule are to classify this subsegment as naturally dystrophic and establish seasonal dissolved oxygen criteria as a result of the second addendum to the USE Attainability Analysis. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards §1123. Numerical Criteria and Designated Uses

A. - D. ...

* * *

E. Endnotes. Numbers in brackets, e.g. [1], in Table 3 refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
Atchafalaya River Basin (01)									
* * *									
Mermentau River Basin (05)									
* * *									
050603	Bayou Chene—From headwaters to Lacassine Bayou; includes Bayou Grand Marais	A B C F	90	10	[16]	6.5-9.0	1	33	400
* * *									

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762 (August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010) amended by the Office of the Secretary, Legal Division, LR 41:2603 (December 2015), LR 42:737 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ101. Such comments must be received no later than August 1, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ101. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 25, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802.

Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bayou Chene DO Criterion

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the Department of Environmental Quality (DEQ) or local governmental units as a result of the proposed rule. The change classifies Bayou Chene (from headwaters to Lacassine Bayou; includes Bayou Grand Marais) as naturally dystrophic waters and establishes a seasonal dissolved oxygen criteria of 5 mg/L from December to February and 3 mg/L March to November.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not anticipated to have any impact on the revenues of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the rule change.

Herman Robinson
General Counsel
1906#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Transportation Safety Requirements (LAC 33:XV.763 and Chapter 15)(RP065ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Radiation Protection Regulations, LAC 33:XV.763,1501, 1502, 1503, 1504, 1505, 1506, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1520, and 1599. (Log #RP065ft).

This Rule is identical to federal regulations found in 10 CFR 35 and 71, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson with the Regulation Development Section at (225) 219-3985. No fiscal or economic impact will result from the rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule makes changes to the transportation safety requirements for licensed material. This Rule was promulgated by the Nuclear Regulatory Commission (NRC) as RATS ID 2015-3. This Rule will update the state regulations to be compatible with changes in the federal regulations. Outline formatting and cross-referencing corrections are made in Section 763.

The changes in the state regulations are compatibility category B, C, and health and safety requirements for the state of Louisiana to remain an NRC agreement state. The basis and rationale for this Rule are to mirror the federal regulations and maintain an adequate agreement state program. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part XV. Radiation Protection

Chapter 7. Use of Radionuclides in the Healing Arts

§763. Training

A. - C. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Paragraph C.4 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 3.a.ii.(f). ...

4. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsection B or C or D or Paragraph E.1 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements, that the individual has satisfactorily completed the requirements in Subparagraph C.1.a or C.3.a of this Section and has achieved

a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729.

D. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Paragraph D.4 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 3.a.ii.(g). ...

4. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, Subsection B or Subclause D.3.a.ii.(f) and Paragraph E.1 of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed the requirements in Subparagraph D.1.a or D.3.a of this Section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.729 and LAC 33:XV.731.H.

E. - E.1. ...

a. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Division E.1.b.i.(b).(vii) and Subparagraph E.1.c of this Section. (Specialty boards whose certification processes have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To be recognized, a specialty board shall require all candidates for certification to:

a.i. - b.i.(b).(vii).[d]. ...

c. has obtained written attestation that the individual has satisfactorily completed the requirements in Clause E.1.a.i and Division E.1.b.i.(b).(vii) or Clause E.1.b.i of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in this Paragraph, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. The preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section shall have experience in administering dosages in the same dosage category or categories (i.e., Division E.1.b.i.(b).(vii) of this Section) as the individual requesting authorized user status.

2. ...

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.2.c.i and ii of this Section and whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph E.2.d of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.); or

b. - c.ii.(f). ...

d. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.2.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1, 2, or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirement in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[a] or [b] of this Section.

3. ...

a. who is certified by a medical specialty board whose certification process includes all of the requirements in Clauses E.3.c.i and ii of this Section and whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Subparagraph E.3.d of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.); or

b. - c.ii.(f). ...

d. has obtained written attestation that the individual has satisfactorily completed the requirements in Clauses E.3.c.i and ii of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized in LAC 33:XV.735.C. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1 or 3 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirements in Subparagraph E.1.b of this Section shall also have experience in administering dosages as specified in Subdivision E.1.b.i.(b).(vii).[b] of this Section.

4. - 4.d.ii.(f). ...

e. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph E.4.b or c of this Section, and has achieved a level of competency sufficient to function independently as an authorized user for the parenteral administration of unsealed byproduct material requiring a written directive. The written attestation shall be signed by a preceptor authorized user who meets the requirements in Subsection B or Paragraph E.1 or 4 of this Section, or equivalent agreement state requirements or Nuclear Regulatory Commission requirements. A preceptor authorized user who meets the requirements in Paragraph E.1 of this Section shall have experience in administering dosages as specified in Subdivisions E.1.b.i.(b).(vii).[c] and/or [d] of this Section.

F. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Paragraph F.3 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its

certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 2.b. ...

3. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed the requirements in Subparagraph F.1.a, or Paragraph F.2.a and b of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized in LAC 33:XV.741.

G. - G.2.b.iv. ...

3. has obtained written attestation, signed by a preceptor authorized user who meets the requirements in Subsections B or F and G of this Section, or equivalent agreement state requirements, or Nuclear Regulatory Commission requirements that the individual has satisfactorily completed the requirements in Paragraphs G.1 and 2 of this Section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

H. - I. ...

1. who is certified by a medical specialty board whose certification process has been recognized by the commission or an agreement state, and who meets the requirements in Paragraphs I.3 and 4 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 2.b. ...

3. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraph I.1.a or Subparagraphs I.2.a and b and Paragraph I. 4 of this Section, and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written attestation must be signed by a preceptor authorized user who meets the requirements in this Subsection or Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status; and

4. who has received training in device operation, safety procedures, and clinical use for the type(s) of use for which authorization is sought. This training requirement may be satisfied by satisfactory completion of a training program provided by the vendor for new users or by receiving training supervised by an authorized user or authorized medical physicist, as appropriate, who is authorized for the type(s) of use for which the individual is seeking authorization.

J. ...

1. who is certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who

meets the requirements in Paragraphs J.3 and 4 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 2.a.iv. ...

3. has obtained written attestation that the individual has satisfactorily completed the requirements in Subparagraphs J.1.a and b and Paragraph J.4, or Subparagraph J.2.a and Paragraph J.4, of this Section, and has achieved a level of competency sufficient to function independently as an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status. The written attestation must be signed by a preceptor authorized medical physicist who meets the requirements in this Subsection, Subsection B of this Section or equivalent agreement state requirements or Nuclear Regulatory Commission requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status; and

4. who has training for the type(s) of use for which authorization is sought that includes hands-on device operation, safety procedures, clinical use, and the operation of a treatment planning system. This training requirement may be satisfied by satisfactorily completing either a training program provided by the vendor or by training supervised by an authorized medical physicist authorized for the type(s) of use for which the individual is seeking authorization.

K. ...

1. who is certified by a specialty board whose certification process has been recognized by the Nuclear Regulatory Commission or an agreement state, and who meets the requirements in Paragraph K.3 of this Section. (The names of board certifications that have been recognized by the Nuclear Regulatory Commission or an agreement state will be posted on the NRC's web page.) To have its certification process recognized, a specialty board shall require all candidates for certification to:

1.a. - 2.a.ii.(e). ...

3. has obtained written attestation, signed by a preceptor authorized nuclear pharmacist, that the individual has satisfactorily completed the requirements in Subparagraphs K.1.a, b, and c, or Paragraph K.2, of this Section and has achieved a level of competency sufficient to function independently as an authorized nuclear pharmacist.

L. - M. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and 2104.B.(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, LR 18:34 (January 1992), amended LR 24:2106 (November 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2590 (November 2000), LR 30:1186 (June 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:814 (May 2006), LR 34:983 (June 2008), LR 34:2121 (October 2008), LR 36:1772 (August 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1342 (July 2014), amended by the Office of the

Secretary, Legal Affairs and Criminal Investigations Division, LR 44:2137 (December 2018), LR 45:

Chapter 15. Transportation of Radioactive Material

§1501. Purpose

A. The regulations in this Chapter establish requirements for packaging, preparation for shipment, and transportation of licensed material.

B. The packaging and transport of licensed material are also subject to other Chapters of LAC 33:XV (such as LAC 33:XV.Chapters 3 and 4), and to the regulations of other agencies (such as the United States Department of Transportation (U.S. DOT)) and the United States Postal Service) having jurisdiction over means of transport. The requirements of this Chapter are in addition to, and not in substitution for, other requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2103 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1502. Scope

A. The regulations in this Chapter apply to any specific or general licensee authorized to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision in this Chapter authorizes possession of licensed material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), LR 26:2771 (December 2000), LR 27:1238 (August 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2103 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1503. Definitions

A. As used in this Chapter, the following definitions apply.

* * *

Contamination—the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm² (1×10^{-5} µCi/cm²) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm² (1×10^{-6} µCi/cm²) for all other alpha emitters.

a. *Fixed Contamination*—contamination that cannot be removed from a surface during normal conditions of transport.

b. *Non-Fixed Contamination*—contamination that can be removed from a surface during normal conditions of transport.

* * *

Criticality Safety Index (CSI)—the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages, overpacks, or freight containers containing fissile material during transportation. Determination of the *criticality safety*

index is described in LAC 33:XV.1511 and 1512 and in 10 CFR 71.59. The *criticality safety index* for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.

* * *

Low Specific Activity (LSA) Material—radioactive material with limited specific activity that is nonfissile or that is excepted under LAC 33:XV.1505.C, and that satisfies the descriptions and limits set forth below. Shielding materials surrounding the *LSA material* may not be considered in determining the estimated average specific activity of the package contents. *LSA material* shall be in one of three groups:

a. LSA-I:

i. uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides that are intended to be processed for the use of these radionuclides;

ii. natural uranium, depleted uranium, natural thorium, or their compounds or mixtures, provided they are unirradiated and in solid or liquid form;

iii. radioactive material other than fissile material, for which the A_2 value is unlimited; or

iv. ...

b. LSA-II:

i. ...

ii. other radioactive material in which the activity is distributed throughout, and the estimated average specific activity does not exceed 10^{-4} A_2/g for solids and gases, and 10^{-5} A_2/g for liquids.

c. LSA-III. Solids (e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77, in which:

i. - ii. ...

iii. the estimated average specific activity of the solid, excluding any shielding material, does not exceed 2×10^{-3} A_2/g .

* * *

Special Form Radioactive Material—radioactive material that satisfies the following conditions:

a. ...

b. the piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

c. it satisfies the requirements of 10 CFR 71.75. A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on June 30, 1983 (see 10 CFR Part 71, revised as of January 1, 1983), and constructed prior to July 1, 1985; a special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR Part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation shall meet the specifications of this definition.

* * *

Uranium: Natural, Depleted, Enriched—

a. *Natural Uranium*—uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder by weight essentially uranium-238).

b. - c. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1265 (June 2000), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2103 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1504. Requirements for the Transportation of Licensed Material

A. Except as authorized in a general or specific license issued by the department, or as exempted in accordance with this Chapter, no licensee may transport licensed material or deliver licensed material to a carrier for transport.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2602 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2106 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1505. Exemptions

A. ...

B. A licensee is exempt from all the requirements of this Chapter with respect to shipment or carriage of the following low-level materials:

1. natural material and ores containing naturally occurring radionuclides that are either in their natural state, or have only been processed for purposes other than for the extraction of the radionuclides, and which are not intended to be processed for use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the applicable radionuclide activity concentration values specified in Table A-2 or Table A-3 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A;

2. materials for which the activity concentration is not greater than the activity concentration values specified in Table A-2 or Table A-3 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A, or for which the consignment activity is not greater than the limit for an exempt consignment found in Table A-2 or Table A-3 of 10 CFR Part 71, Appendix A, incorporated by reference in LAC 33:XV.1599.A; or

3. Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess

of the levels cited in the definition of *contamination* in LAC 33:XV.1503.A.

C. - C.3. ...

4. uranium enriched in uranium-235 to a maximum of 1 percent by weight, and with total plutonium and uranium-233 content of up to 1 percent of the mass of uranium-235, provided that the mass of any beryllium, graphite, and hydrogenous material enriched in deuterium constitutes less than 5 percent of the uranium mass, and that the fissile material is distributed homogeneously and does not form a lattice arrangement within the package;

5. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, LR 31:55 (January 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2106 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1508. General License: NRC Approved Packages

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance (CoC), or other approval has been issued by the U.S. NRC.

B. This general license applies only to a licensee who has a quality assurance program approved by the department as satisfying the provisions of LAC 33:XV.1520.

C. Each licensee issued a general license under Subsection A of this Section shall:

1. maintain a copy of the certificate of compliance, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

2. comply with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this Chapter; and

3. submit in writing before the first use of the package to: ATTN: Document Control Desk, Director, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in 10 CFR 71.1(a), the licensee's name and license number and the package identification number specified in the package approval.

D. The general license in this Section applies only when the package approval authorizes use of the package under this general license.

E. For a Type B or fissile material package, the design of which was approved by the U.S. NRC before April 1, 1996, the general license is subject to additional restrictions of 10 CFR 71.19.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2107 (October 2008), amended by the Office of

the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1509. General License: DOT Specification Container [Formerly §1510]

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1267 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2107 (October 2008), repealed by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1510. General License: Use of Foreign Approved Package

A. A general license is issued to any licensee of the department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate that has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.23.

B. Except as otherwise provided in this Section, the general license applies only to a licensee who has a quality assurance program approved by the department as satisfying the applicable provisions of LAC 33:XV.1520.

C. - D.1. ...

2. complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this Chapter and of 10 CFR Part 71, Subparts A, G, and H.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2108 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1511. General License: Fissile Material

A. ...

B. The general license applies only to a licensee who has a quality assurance program approved by the department as satisfying the provisions of 10 CFR Part 71, Subpart H.

C. - Table 2. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:2108 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1512. General License: Plutonium-Beryllium Special Form Material

A. ...

B. The general license applies only to a licensee who has a quality assurance program approved by the department as satisfying the provisions of 10 CFR Part 71, Subpart H.

C. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:2109 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1513. External Radiation Standards for All Packages

A. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:2109 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1515. Records

A. Each licensee shall maintain, for a period of three years after shipment, a record of each shipment of licensed material not exempt under 10 CFR 71.14, showing where applicable:

1. identification of the packaging by model number and serial number;
2. verification that there are no significant defects in the packaging, as shipped;
3. volume and identification of coolant;
4. type and quantity of licensed material in each package, and the total quantity of each shipment;
5. for each item of irradiated fissile material:
 - a. identification by model number and serial number;
 - b. irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and
 - c. any abnormal or unusual condition relevant to radiation safety;
6. date of the shipment;
7. for fissile packages and for Type B packages, any special controls exercised;
8. name and address of the transferee;
9. address to which the shipment was made; and
10. results of the determinations required by 10 CFR 71.87 and by the conditions of the package approval.

B. The licensee shall make available to the department for inspection, upon reasonable notice, all records required by this Section. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

C. The licensee shall maintain sufficient written records to furnish evidence of the quality of packaging. These records shall be maintained for three years after the life of the packaging to which they apply. The records to be maintained include:

1. results of the determinations required by 10 CFR 71.85;
2. design, fabrication, and assembly records;
3. results of reviews, inspections, tests, and audits;
4. results of monitoring work performance and materials analyses; and
5. results of maintenance, modification, and repair activities. Inspection, test, and audit records shall identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1516. Preliminary and Routine Determinations

A. The licensee shall ascertain that the determinations in 10 CFR 71.85(a) – (c) have been made.

B. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this Chapter and of the license. The licensee shall verify that:

1. the package is proper for the contents to be shipped;
2. the package is in unimpaired physical condition except for superficial defects such as marks or dents;
3. each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;
4. any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;
5. any pressure relief device is operable and set in accordance with written procedures;
6. the package has been loaded and closed in accordance with written procedures;
7. for fissile material, any moderator or neutron absorber, if required, is present and in proper condition;
8. any structural part of the package that could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified in 10 CFR 71.45;
9. the level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in U.S. DOT regulations at 49 CFR 173.443;
10. external radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in LAC 33:XV.1513 at any time during transportation; and
11. accessible package surface temperatures shall not exceed the limits specified in 10 CFR 71.43(g) at any time during transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Nuclear Energy Division, LR 13:569 (October 1987), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:1268 (June 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 34:2110 (October 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1520. Quality Assurance

A. Quality Assurance Requirements

1. This Section describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in this Section, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes

quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component in accordance with predetermined requirements. Each licensee is responsible for satisfying the quality assurance requirements that apply to its use of a packaging for the shipment of licensed material subject to this Section.

2. Each licensee shall establish, maintain, and execute a quality assurance program that satisfies each of the applicable criteria of this Section and that satisfies any specific provisions that are applicable to the licensee's activities, including procurement of packaging. The licensee shall execute the applicable criteria in a graded approach to an extent that is commensurate with the quality assurance requirement's importance to safety.

3. Before using any package for the shipment of licensed material subject to this Section, each licensee shall obtain department approval of its quality assurance program. Using an appropriate method listed in 10 CFR 71.1(a), each licensee shall file a description of its quality assurance program, including a discussion of which requirements of this Section are applicable and how they will be satisfied, by submitting the description to the Office of Environmental Compliance.

4. A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices, and meeting the requirements of LAC 33:XV.547.B, is deemed to satisfy the requirements of LAC 33:XV.1508.B and Paragraph A.2 of this Section.

B. Quality Assurance Organization

1. The licensee shall be responsible for the establishment and execution of the quality assurance program. The licensee may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program. These activities include performing the functions associated with attaining quality objectives and the quality assurance functions.

2. ...

3. The persons and organizations performing quality assurance functions shall have sufficient authority and organizational freedom to:

a. - c. ...

4. The persons and organizations performing quality assurance functions shall report to a management level that assures that the required authority and organizational freedom, including sufficient independence from cost and schedule factors, when opposed to safety considerations, are provided.

5. ...

6. Irrespective of the organizational structure, any individual assigned the responsibility for assuring effective execution of any portion of the quality assurance program, at any location where activities subject to this Section are being performed, shall have direct access to the levels of management necessary to perform this function.

C. Quality Assurance Program

1. The licensee shall establish, at the earliest practicable time consistent with the schedule for

accomplishing the activities, a quality assurance program that complies with the requirements of this Section. The licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which the packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

2. The licensee, through its quality assurance program, shall provide control over activities affecting the quality of the identified materials and components to an extent consistent with their importance to safety, and as necessary to assure conformance to the approved design of each individual package used for the shipment of radioactive material. The licensee shall assure that activities affecting quality are accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanliness; and assurance that all prerequisites for the given activity have been satisfied. The licensee shall take into account the need for special controls, processes, test equipment, tools, and skills to attain the required quality, and the need for verification of quality by inspection and test.

3. The licensee shall base the requirements and procedures of its quality assurance program on the following considerations concerning the complexity and proposed use of the package and its components:

a. - b. ...

c. the need for special controls and surveillance over processes and equipment;

d. - e. ...

4. The licensee shall provide for indoctrination and training of personnel performing activities affecting quality, as necessary to assure that suitable proficiency is achieved and maintained. The licensee shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall review regularly the status and adequacy of that part of the quality assurance program they are executing.

D. Handling, Storage, and Shipping Control. The licensee shall establish measures to control, in accordance with instructions, the handling, storage, shipping, cleaning, and preservation of materials and equipment to be used in packaging to prevent damage or deterioration. When necessary for particular products, special protective environments, such as an inert gas atmosphere and specific moisture content and temperature levels, shall be specified and provided.

E. Inspection, Test, and Operating Status

1. The licensee shall establish measures to indicate, by the use of markings such as stamps, tags, labels, or routing cards, or by other suitable means, the status of inspections and tests performed upon individual items of the packaging. These measures shall provide for the identification of items that have satisfactorily passed required inspections and tests, where necessary, to preclude inadvertent bypassing of the inspections and tests.

2. ...

F. Nonconforming Materials, Parts, or Components. The licensee shall establish measures to control materials, parts, or components that do not conform to the licensee's requirements in order to prevent their inadvertent use or installation. These measures shall include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items shall be reviewed and accepted, rejected, repaired, or reworked in accordance with documented procedures.

G. Corrective Action. The licensee shall establish measures to assure that conditions adverse to quality, such as deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and corrected. In the case of a significant condition adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action is taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management.

H. Quality Assurance Records. The licensee shall maintain sufficient written records to describe the activities affecting quality. These records shall include changes to the quality assurance program as required by Subsection J of this Section, the instructions, procedures, and drawings required by 10 CFR 71.111 to prescribe quality assurance activities and shall include closely related specifications such as required qualifications of personnel, procedures, and equipment. The records shall include instructions or procedures that establish a records retention program that is consistent with applicable regulations and designates factors such as duration, location, and assigned responsibility. The licensee shall retain these records for three years beyond the date when the licensee last engaged in the activity for which the quality assurance program was developed. If any portion of the quality assurance program, written procedures or instructions is superseded, the licensee shall retain the superseded material for three years after it is superseded.

I. Audits. The licensee shall carry out a comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits shall be performed in accordance with written procedures or checklists by appropriately trained personnel not having direct responsibilities in the areas being audited. Audited results shall be documented and reviewed by management having responsibility in the area audited. Follow-up action, including re-audit of deficient areas, shall be taken where indicated.

J. Changes to Quality Assurance Program

1. Each licensee shall submit, in accordance with 10 CFR 71.1(a), a description of a proposed change to its department-approved quality assurance program that will reduce commitments in the program description as approved by the department. The licensee shall not implement the change before receiving department approval.

a. The description of a proposed change to the department-approved quality assurance program shall identify the change, the reason for the change, and the basis

for concluding that the revised program incorporating the change continues to satisfy the applicable requirements of this Section.

b. Reserved

2. Each licensee may change a previously approved quality assurance program without prior department approval, if the change does not reduce the commitments in the quality assurance program previously approved by the department. Changes to the quality assurance program that do not reduce the commitments shall be submitted to the department every 24 months, in accordance with 10 CFR 71.1(a). In addition to quality assurance program changes involving administrative improvements and clarifications, spelling corrections, and non-substantive changes to punctuation or editorial items, the following changes are not considered reductions in commitment:

a. the use of a quality assurance standard approved by the department that is more recent than the quality assurance standard in the licensee's current quality assurance program at the time of the change;

b. the use of generic organizational position titles that clearly denote the position function, supplemented as necessary by descriptive text, rather than specific titles, provided that there is no substantive change to either the functions of the position or reporting responsibilities;

c. the use of generic organizational charts to indicate functional relationships, authorities, and responsibilities, or alternatively, the use of descriptive text, provided that there is no substantive change to the functional relationships, authorities, or responsibilities;

d. the elimination of quality assurance program information that duplicates language in quality assurance regulatory guides and quality assurance standards to which the licensee has committed to on record; and

e. organizational revisions that ensure that persons and organizations performing quality assurance functions continue to have the requisite authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations.

3. Each licensee shall maintain records of quality assurance program changes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 34:2112 (October 2008), repromulgated LR 34:2393 (November 2008), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

§1599. Appendix—Incorporation by Reference of 10 CFR Part 71, Appendix A, Tables A-1, A-2, A-3, and A-4; Procedures for Determining A₁ and A₂

A. Tables A-1, A-2, A-3, and A-4 in 10 CFR Part 71, Appendix A, July 13, 2015, are hereby incorporated by reference. These tables are used to determine the values of A₁ and A₂, as described in Subsections B-F of this Section.

B. - D. ...

E. For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply.

1. For special form radioactive material, the maximum quantity that may be transported in a Type A package is as follows.

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where:

B(i) = the activity of radionuclide i in special form

A₁(i) = the A₁ value for radionuclide i

2. For normal form radioactive material, the maximum quantity that may be transported in a Type A package is as follows.

$$\Sigma B(i)/A_2(i) \leq 1$$

where:

B(i) = the activity of radionuclide i in normal form

A₂(i) = the A₂ value for radionuclide i

3. If the package contains both special and normal form radioactive material, the activity that may be transported in a Type A package is as follows.

$$\sum_i \frac{B(i)}{A_1(i)} + \sum_j \frac{C(j)}{A_2(j)} \leq 1$$

where:

B(i) = the activity of radionuclide i as special form radioactive material

A₁(i) = the A₁ value for radionuclide i

C(j) = the activity of radionuclide j as normal form radioactive material

A₂(j) = the A₂ value for radionuclide j.

4. Alternatively, the A₁ value for mixtures of special form material may be determined as follows.

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where:

f(i) = the fraction of activity for radionuclide i in the mixture

A₁(i) = the appropriate A₁ value for radionuclide i

5. Alternatively, the A₂ value for mixtures of normal form material may be determined as follows.

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where:

f(i) = the fraction of activity for radionuclide i in the mixture

A₂(i) = the appropriate A₂ value for radionuclide i

6. The exempt activity concentration for mixtures of nuclides may be determined as follows.

$$\text{Exempt activity concentration for mixture} = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

where:

f(i) = the fraction of activity concentration of radionuclide i in the mixture

[A] = the activity concentration for exempt material containing radionuclide i

7. The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows.

$$\text{Exempt consignment activity limit for mixture} = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

where:

f(i) = the fraction of activity of radionuclide i in the mixture

A(i) = the activity limit for exempt consignments for radionuclide i

F. When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped, and the lowest A₁ or A₂ value, as appropriate, for the radionuclides in each group may be used in applying the formulas in Subsection E. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A₁ or A₂ values for the alpha emitters and beta/gamma emitters. When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest [A] (activity concentration for exempt material) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in Subsection E of this Section. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest [A] or A values for the alpha emitters and beta/gamma emitters, respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104(B) and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 34:2114 (October 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010), amended by the Office of the Secretary, Legal Division, LR 38:2748 (November 2012), LR 40:1929 (October 2014), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A public hearing will be held on July 25, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by RP065ft. Such comments must be received no later than July 25, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of RP065ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

1906#015

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Wilson Slough and Bradley Slough Turbidity Criteria
(LAC 33:IX.1113)(WQ103)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Water Quality regulations, LAC 33:IX.1113.B.9.b.iii (WQ103).

This Rule will revise the turbidity criteria for two subsegments in the Pearl River Basin (PRB). The turbidity criteria for subsegment 090205, Wilson Slough, and subsegment 090206, Bradley Slough, will be revised from 25 nephelometric turbidity units (NTU) to a more appropriate turbidity criteria of 50 NTU.

A report was submitted by the department to Region 6 of the U.S. Environmental Protection Agency that defined the turbidity issues in subsegments 090205 and 090206 and justified the revisions to the turbidity criteria as appropriate and protective. The basis and rationale for this Rule are to set criteria for waters of the state that is appropriate and protective of the designated uses of those waters. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1113. Criteria

A. - B.9.b.ii. ...

iii. Amite, Pearl (includes Wilson Slough and Bradley Slough), Ouachita, Sabine, Calcasieu, Tangipahoa, Tickfaw, and Tchefuncte rivers—50 NTU;

B.9.b.iv. - C.6.f. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 10:745 (October 1984), amended LR 15:738 (September 1989), LR 17:264 (March 1991), LR 17:967 (October 1991), repromulgated LR 17:1083 (November 1991), amended LR 20:883 (August 1994), LR 24:688 (April 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2402 (December 1999), LR 26:2547 (November 2000), LR 27:289 (March 2001), LR 30:1474 (July 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 33:457 (March 2007), LR 33:829 (May 2007), LR 35:446 (March 2009), amended by the Office of the Secretary, Legal Division, LR 42:736 (May 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by WQ103. Such comments must be received no later than August 1, 2019, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of WQ103. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on July 25, 2019, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Wilson Slough and Bradley Slough Turbidity Criteria**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings to the Department of Environmental Quality (DEQ) or local governmental units as a result of the rule change which revises the turbidity criteria for two segments in the Pearl River Basin to include Wilson Slough and Bradley Slough.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule is not anticipated to have any impact on the revenues of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the rule change.

Herman Robinson
General Council
1906#014

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Community Development

Community Water Enrichment Fund—Eligibility (LAC 4:VII.2401)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and through the authority granted in LAC 4: VII. Chapter 23 and 24, the Division of Administration, Office of Community Development proposes to update rules to enable effective administration of the programs.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 24. Community Water Enrichment Fund

§2401. Purpose

A. ...

B. All municipalities and parishes within the State of Louisiana that are identified by HUD as non-entitlement communities are eligible to apply for assistance.

C. - E.2. ...

3. The purchase of generators or chemicals will not be allowed under this program.

4. - 6. ...

7. Three-year contracts shall be issued for CWF grants by OCD. Contract extensions and changes to the project must be requested in writing by the grantee and approved in writing by the Director of OCD/CWF.

8. No award shall be made to an entity listed on the LLA's non-compliance list.

9. Applications received after deadline established by OCD will not be considered.

AUTHORITY NOTE: Promulgated in accordance with Act 513 of the 2008 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 35:951 (May 2009), amended LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known or foreseeable impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Traci Watts, Director, P.O. Box 94095, Baton Rouge LA 70804-9095, through July 10, 2019. She is responsible for responding to inquiries regarding this proposed Rule.

Traci Watts
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Community Water Enrichment Fund—Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs as the result of the proposed rule change. The proposed rule change codifies current practices and procedures regarding: eligibility for assistance, purchase prohibitions, Community Water Enrichment Fund grant contract terms, ineligibility for an entity listed on the Legislative Auditor's non-compliance list, and clarification that applications submitted after the established deadline will not be considered.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated material effect on state or local government revenues as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed rule change.

Traci Watts
Director
1906#011

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Community Development

Local Government Assistance Program (LGAP)—Eligibility
(LAC 4:VII.2301)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and through the authority granted in LAC 4: VII. Chapter 23 and 24, the Division of Administration, Office of Community Development proposes to update rules to enable effective administration of the programs.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 23. Local Government Assistance Program

§2301. Purpose

- A. ...
- B. All municipalities and parishes within the state of Louisiana that are identified by HUD as non-entitlement communities are eligible to apply for assistance.
- C. - D. ...
- E. The Office of Community Development applies the following guidelines to any project or activity funded.

1. At the start of each fiscal year, the director of OCD shall determine the equal funding level for all eligible parishes based on the total amount budgeted as aid to local governments for LGAP grants.

2. ...
3. Repealed.
4. Funds from this program cannot be used to pay consulting fees charged to a unit of government for the preparation of the application, for administrative costs by agents of the project sponsor or any third party. Also, funds cannot be used to pay for previously incurred debt, improvements to private property, overtime for government employees, administration, engineering only or planning only projects, or recreation activities. LGAP funds are not intended for salary only projects or ongoing salaried positions.

5. - 6. ...

7. Three-year contracts shall be issued for LGAP grants by OCD. Contract extensions and changes to the project must be requested in writing by the grantee and approved in writing by the executive director of OCD.

8. No award shall be made to an entity listed on the LLA's non-compliance list.

9. Applications received after deadline established by OCD will not be considered.

AUTHORITY NOTE: Promulgated in accordance with Act 27 of the 2006 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Community Development, LR 32:2045 (November 2006), amended LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule

has no known or foreseeable impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The proposed Rule should have no adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Traci Watts, Director, P.O. Box 94095, Baton Rouge LA 70804-9095 through July 10, 2019. She is responsible for responding to inquiries regarding this proposed Rule.

Traci Watts
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Local Government Assistance Program (LGAP)—Eligibility

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs as the result of the proposed rule change. The proposed rule change codifies current practices and procedures regarding: eligibility for assistance, repeals certain exceptions, LGAP grant contract terms, ineligibility for an entity listed on the Legislative Auditor's non-compliance list, and clarification that applications submitted after the established deadline will not be considered.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated material effect on state or local government revenues as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed rule change.

Traci Watts
Director
1906#010

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Office of Facility Planning and Control

Architects Selection Board,
Engineers Selection Board, and
Landscape Architects Selection Board
(LAC 4:VII.Chapters 1-5)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the provisions of RS 38:2311, the Division of Administration, Facility Planning and Control, at the request of the Architects Selection Board, Engineers Selection Board, and Landscape Architects Selection Board, hereby gives notice of its intent, to amend LAC 4:VII.Chapters 1-5, Landscape Architects Selection Board. This rule change amends the language of the Architects', Engineers', and Landscape Architects' Selection Board rules to correct, update, coordinate, and improve the processes in keeping with the three selection boards' purposes. The proposed amended rules apply to the following aspects of the three selection boards: officers, election of officers, officer terms, meetings, parliamentary authority, applications, interview procedures, voting and selection procedure, emergency procedures, and communication.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 1. Architects Selection Board

Subchapter A. Organization

§105. Objective

A. The objective of this board is to provide a system for the selection of professional services rendered by architects, licensed to practice in the state of Louisiana, that is impartial, equitable, and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 24:330

(February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§107. Members

A. The board shall be composed of eight members, appointed or elected, serving terms in accordance with the provisions of the authority set forth in §103.

B. Any member desiring to resign from the board shall submit his/her resignation, in writing by registered mail, to the Board of Architectural Examiners, with a copy addressed to the chairperson of the board. The effective date of resignation shall be the date of registered mailing to the Board of Architectural Examiners.

C. The filling of a board vacancy for the unexpired term due to resignation, death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:453 (June 1984), amended LR 15:262 (April 1989), LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§109. Officers

A. The officers of this board shall be a chairperson and a vice-chairperson. These officers shall perform the duties prescribed in §103 and by these rules.

B. The chairperson shall:

1. be the presiding officer at meetings of the board;
2. have the authority to order a special meeting of the board;
3. be responsible for coordinating the activities of the board;
4. appoint all committees and serve as an ex-officio member thereof;
5. authenticate by his/her signature, when necessary, all acts, orders, and proceedings of the board;
6. be responsible for implementing all orders and resolutions of the board.

C. In the event of absence or incapacity of the chairperson, the vice-chairperson shall assume the duties of the chairperson as outlined above. In the absence of the secretary, the duties of the secretary shall be delegated to the vice-chairperson.

D. Nomination and election of chairperson and vice-chairperson of the board shall be held and conducted at the first regularly scheduled meeting after September 15 of each year.

E. The chairperson and vice-chairperson shall begin their terms in office immediately upon election. They shall serve a maximum of one year, unless re-elected for one additional term (§109.G).

F. In the event that the term of office of the chairperson and vice-chairperson expires in accordance with §109.E and a meeting is called at a time when there is no duly elected chairperson or vice-chairperson, upon convening, the first order of business of the board shall be the selection of a temporary chairperson who shall serve merely for the purpose of conducting the nomination and election of chairperson and vice-chairperson. Upon election, the temporary chairpersonship automatically dissolves and the

newly elected officers begin their terms in office. Nothing in this section shall prevent the temporary chairperson from either voting or being nominated for or elected to the office of chairperson or vice-chairperson.

G. No member shall hold more than one office at a time. A member may serve consecutive terms in accordance with R.S. 38:2311(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§110. Secretary

A. The office of secretary shall be furnished to the board by the Office of Facility Planning and Control, subject to approval by the board.

B. The secretary shall:

1. be under the general supervision of the board;
2. give notice of all meetings of the board and its committees to the board and general public;
3. attend all meetings of the board and committees and record the minutes of all proceedings and make the minutes and records available upon request;
4. keep on file all committee reports;
5. receive and conduct the general correspondence of the board; that is, correspondence which is not a function proper to the officers, or to the committees;
6. cause the official advertisement to be advertised in accordance with R.S. 38:2312(A) and the rules of selection procedure adopted by the board;
7. maintain and be the custodian of a file of all applications for projects, as well as all data submitted by applicants selected by the board to furnish architectural services for state projects as provided for in the rules of selection procedure;
8. perform such other duties as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§111. Meetings

A. A regular meeting of the board shall be held on the third Wednesday in the months of January, March, May, July, September, and November of each year, unless such meeting is waived by the chairperson as unnecessary.

B. Special meetings may be called by the chairperson or shall be called upon the written request of a minimum of five members of the board. Special meetings may be held at any place provided the time, the place, and the purpose of the meeting shall be stated in the call and made public in accordance with applicable laws. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A minimum of five members of the board shall be present to constitute a quorum.

D. All meetings shall be held in public, except as provided in §128.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975) amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 17:1206 (December 1991), LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§113. Committees

A. Committees, standing or special, shall be appointed by the chairperson of the board as he/she shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§115. Parliamentary Authority

A. The rules contained in the current edition of *Robert's Rules of Order, Newly Revised*, shall govern the board in all cases to which they are applicable and in which they are not inconsistent with these rules of organization and any special rules of order that the board may adopt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§117. Voting

A. Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes on behalf of elected members are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:330 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§119. Amendments to Rules

A. These rules of organization may be amended at any regular or special called meeting of the board by an affirmative vote of a simple majority of the attending board, provided the proposed amendment has been submitted, in writing, at the previous regular or special meeting, and is in full compliance with the Louisiana Administrative Procedure Act and other applicable laws. Upon receipt of a proposed written amendment, the chairperson, before the next regular or special meeting, shall cause to give at least 20 days' notice of the board's intended action as provided in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 24:331 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Subchapter B. Selection Procedure

§121. Public Notification

A. Upon being advised by the Office of Facility Planning and Control that an agency intends to contract for professional services, the chairperson shall request the official advertisement to be published by the Office of Facility Planning and Control. There shall be a minimum seven business day application period, commencing with the day of the first publication of the official advertisement and ending on the day of the deadline for receiving applications. During this period, the official advertisement shall be published in the official state journal one time. A copy of the official advertisement shall be provided to the Board of Architectural Examiners.

B. The official advertisement specified above shall include all information required under R.S. 38:2312(A) and the tentative date and time of the board meeting at which applications will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§123. Communications with Applicant Firms

[Formerly §131]

A. No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 10:454 (June 1984), repromulgated LR 24:332 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§125. Application

A. Any applicant (proprietorship, partnership, corporation or joint venture of any of these) meeting the requirements of R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the board deems appropriate.

B.1. The Louisiana Architects Selection Board hereby adopts the use of the LSB-1 Form as the format for submitting an application to the board.

2. The board will accept only those applications submitted on the current edition of the LSB-1 Form. Any special information requested in the advertisement shall be submitted with the required LSB-1 Form. Any submittal not following this format will be deemed non-responsive and not considered.

3. In the LSB-1 Form, the term *prime professional* is as defined in R.S. 38:2310(9).

4. The board has the right to require proof of compliance with the above definition.

C. Consultants, if applicable, shall be listed on the submitted application form and shall possess the necessary qualifications and expertise to satisfactorily provide the services required for this project.

D. All applications shall be received on behalf of the board at the Office of Facility Planning and Control during the time prescribed in the advertisement. The secretary shall date, when received, all applications. The burden for timely and complete submittal lies solely with the applicant.

E. The submission of an application on a particular project shall be considered by the board to mean that based on all publicly available information:

1. the applicant is aware of the scope of work of the project;

2. the applicant has the necessary qualifications and expertise to satisfactorily provide the services required for the project;

3. the applicant can perform the work within the time frame stated;

4. the applicant concurs that the project budget is reasonable;

5. the fee is equitable;

6. the architect contract shall contain a prohibition against contingent fees;

7. the applicant is familiar with the terms and conditions set forth in the current *Louisiana Capital Improvement Projects Procedure Manual for Design and Construction*, and will comply therewith;

8. should an applicant determine that any of the above items are incomplete, inadequate, or insufficient, the applicant is invited to submit a letter stating in detail the applicant's findings, and the board will consider this information in the selection process. No unsolicited, additional information shall be considered. The board reserves the right to reject all applications for selection consideration and to re-advertise any official advertisement.

F. The board may, at its option and with the concurrence of the Office of Facility Planning and Control and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:180 (April 1975), amended LR 4:494 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:262 (April 1989), LR 20:29 (January 1994), LR 24:331 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§127. Selection Procedure

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the applications, together with any available description of the job to the board members.

B. The selection procedure shall be as follows.

1. The user agency shall present the scope of the project and make its recommendations, with supporting data,

of an applicant or applicants for the project under consideration.

2. The board shall discuss the applications and user agency recommendations.

- 3.a. The board shall then take a weighted vote with points awarded as follows:

- i. first choice—three points;

- ii. second choice—two points;

- iii. third choice—one point.

- b. Each board member present shall, by written ballot, vote for his/her first, second, and third choice of applicants for each project.

- c. A ballot without all three choices shall not be counted, however:

- i. where fewer than six applicants have applied, board members may vote for only a first and second choice of applicants;

- ii. where there are three or fewer applicants, board members may vote for only one applicant;

- iii. in all cases, board members may abstain from voting entirely.

4. The secretary shall tabulate these ballots aloud and report to the board the results of the balloting.

5. If, as a result of the weighted vote, an applicant receives a majority of first place votes, the selection shall be awarded to that applicant and a second ballot will not be required.

- 6.a. If, as the result of the weighted vote, the first place choice does not receive a majority of first place votes, the two applicants receiving the most points as a result of the weighted vote shall be considered nominated, and will then be voted on by written ballot, with each board member having one vote. The results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote.

- b. In case of a tie for nomination under §127.B.6.a, there shall be a runoff election to reduce the nominees to two in accordance with the procedures prescribed in §127.B.6.a.

7. In the event no applicant receives a majority vote for selection under §127.B.6.a, a discussion will be held, and new balloting for selection shall take place by written ballot with each board member having one vote.

8. In the event no applicant receives a majority vote for selection by a third ballot, the selected applicant shall then be decided by a coin toss conducted by the chairperson.

9. The selection of an applicant by the board shall be final unless formal charges of having submitted false information required by R.S. 38:2313 are made against the selected applicant by the Office of Facility Planning and Control, in writing, with proper accompanying documentation, to the board members and the selected applicant within seven days of the selection. When a formal charge is made, the board shall, within 10 calendar days, hold a hearing at which time the evidence of false information shall be presented and the selected applicant shall be given the opportunity to present rebuttal. If the board determines that the charges of false information are not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project re-advertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 1:181 (April 1975), amended LR 4:495 (December 1978), repromulgated LR 10:454 (June 1984), amended LR 15:263 (April 1989), LR 24:331 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§128. Interview Procedures for Special Projects

A. The interview procedures of the board are as follows:

1. The user agency notifies the Office of Facility Planning and Control, or the Office of Facility Planning and Control may determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Office of Facility Planning and Control, and the chairperson of the board (vice-chairperson in the absence of a chairperson) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairperson of the board authorizes the Office of Facility Planning and Control to advertise the special project under these procedures. The advertisement shall contain:

- a. the deadline for applications;
- b. the date of the meeting;
- c. the proposed interview meeting date;
- d. the information required under R.S. 38:2312(A).

4. The selection procedure (§127) will be followed from §127.A and B.1, 2, 3, 4, and 5. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented:

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he/she is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to be interviewed.

c. Voting will end when there are a minimum of two, but not more than five applicants to be invited to be interviewed or when the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least two applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §128.A.5 and pursuant to R.S. 42:16 and 42:17.

7. After all the interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedures outlined in §127.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2310 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 17:1206 (December 1991), amended LR 24:331 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§129. Emergency Procedures

A. The emergency procedures of the board are as follows:

1. The Office of Facility Planning and Control receives the notification of emergency from the user agency.

2. The Office of Facility Planning and Control may, after a review of the agency's notification of emergency, notify the chairperson of the board that an emergency does exist.

3. The chairperson of the board then:

- a. authorizes the advertisement;
- b. directs the secretary to set the date and time for the emergency meeting for selection. The meeting shall be scheduled to occur not later than 72 hours after the advertisement is printed, not including Saturdays, Sundays and holidays.

4. The emergency meeting will convene at the date and time designated pursuant to §129.A.3.b to receive applications.

5. Applications will be distributed to present board members as the first order of business.

6. The meeting will then adjourn and, after a review of the applications by board members, reconvene at a time designated by the chairperson at which time selections shall be made in accordance with §127.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 7:408 (August 1981), amended LR 10:455 (June 1984), LR 24:332 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§133. Information

A. Any person may obtain information concerning the board, its rules, regulations and procedures from the board's secretary at the Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804. Requests for information shall be made in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 15:263 (April 1989), repromulgated LR 24:332 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§139. Severability

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules that can be given effect without the invalidated provision,

item, or application and, to this end, the invalidated provision, item, or application of these rules is hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Architects Selection Board, LR 4:495 (December 1978), repromulgated LR 10:455 (June 1984), amended LR 24:332 (February 1998), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Chapter 3. Engineers Selection Board

Subchapter A. Organization

§303. Authority

A. The Louisiana Engineers Selection Board shall be organized in accordance with the provisions of R.S. 38:2310 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:217 (May 1975), amended LR 6:10 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§305. Objective

A. The objective of this board is to provide a system for the selection of professional services rendered by engineers, licensed to practice in the state of Louisiana, that is impartial, equitable, and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:217 (May 1975), amended LR 6:10 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§307. Members

A. The board shall be composed of six members, appointed or elected, serving terms in accordance with the provisions of the authority set forth in §303.

B. Any member desiring to resign from the board shall submit his/her resignation, in writing by registered mail, to the American Council of Engineering Companies of Louisiana (formerly Consulting Engineers Council of Louisiana, Inc.) and the Louisiana Engineering Society, with a copy addressed to the chairperson of the board. The effective date of resignation shall be the date of registered mailing to the American Council of Engineering Companies of Louisiana (formerly Consulting Engineers Council of Louisiana, Inc.) and the Louisiana Engineering Society.

C. The filling of a board vacancy for the unexpired term due to resignation, death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§309. Officers

A. The officers of this board shall be a chairperson and a vice-chairperson. These officers shall perform the duties prescribed in §303 and by these rules.

B. The chairperson shall:

1. be the presiding officer at meetings of the board;

2. have the authority to order a special meeting of the board;

3. be responsible for coordinating the activities of the board;

4. appoint all committees and serve as an ex-officio member thereof;

5. authenticate by his/her signature, when necessary, all acts, orders, and proceedings of the board;

6. be responsible for implementing all orders and resolutions of the board.

C. In the event of absence or incapacity of the chairperson, the vice-chairperson shall assume the duties of the chairperson as outlined above. In the absence of the secretary, the duties of the secretary shall be delegated to the vice-chairperson.

D. Nomination and election of chairperson and vice-chairperson of the board shall be held and conducted at the first regularly scheduled meeting after January 1 of each year.

E. The chairperson and vice-chairperson shall begin their terms in office immediately upon election. They shall serve a maximum of one year, unless re-elected for one additional term (see §309.G).

F. In the event that the term of office of the chairperson and vice-chairperson expires in accordance with §309.E, and a meeting is called at a time when there is no duly elected chairperson and vice-chairperson, upon convening, the first order of business of the board shall be the selection of a temporary chairperson who shall serve merely for the purpose of conducting the nomination and election of chairperson and vice-chairperson. Upon election, the temporary chairpersonship automatically dissolves, and the newly elected officers begin their terms in office. Nothing in this section shall prevent the temporary chairperson from either voting or being nominated for or elected to the office of chairperson or vice-chairperson.

G. No member shall hold more than one office at a time. A member may serve consecutive terms in accordance with R.S. 38:2311(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§311. Secretary

A. The office of secretary shall be furnished to the board by the Office of Facility Planning and Control, subject to approval by the board.

B. The secretary shall:

1. be under the general supervision of the board;

2. give notice of all meetings of the board and its committees to the board and general public;

3. attend all meetings of the board and committees and record the minutes of all proceedings and make the minutes and records available upon request;

4. keep on file all committee reports;

5. receive and conduct the general correspondence of the board; that is, correspondence which is not a function proper to the officers, or to the committees;

6. cause the official advertisement to be advertised in accordance with R.S. 38:2312(A) and the rules of selection procedure as adopted by the board;

7. maintain and be the custodian of a file of all applications for projects, as well as all data submitted by applicants selected by the board to furnish engineering services for state projects as provided for in the rules of selection procedure;

8. perform such other duties as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§313. Meetings

A. A regular meeting of the board shall be held on the second Wednesday in the months of January, April, July, and October of each year unless such meeting is waived by the chairperson as unnecessary.

B. Special meetings may be called by the chairperson or shall be called upon the written request of a minimum of four members of the board. Special meetings may be held at any place provided that the time, the place, and the purpose of the meeting shall be stated in the call and made public in accordance with applicable laws. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A minimum of four members of the board shall be present to constitute a quorum.

D. All meetings shall be held in public, except as provided in §339.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:218 (May 1975), amended LR 6:11 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§315. Committees

A. Committees, standing or special, shall be appointed by the chairperson of the board, as he/she shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), amended LR 6:11 (January 1980), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§319. Voting

A. Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes on behalf of elected members are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§321. Amendments to Rules

A. These rules of organization may be amended at any regular or special called meeting of the board by an affirmative vote of a simple majority of the attending board, provided that the proposed amendment has been submitted, in writing, at the previous regular or special meeting, and is in full compliance with the Louisiana Administrative Procedure Act and other applicable laws. Upon receipt of a proposed written amendment, the chairperson, before the

next regular or special meeting, shall cause to give at least 20 days' notice of the board's intended action as provided in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), amended LR 6:11 (January 1980), LR 9:550 (August 1983), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§323. Severability

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:219 (May 1975), repromulgated LR 6:11 (January 1980), repealed by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Subchapter B. Selection Procedure

§329. Information

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983), repealed.

§331. Public Notification

A. Upon being advised by the Office of Facility Planning and Control, that an agency intends to contract for professional services, the chairperson shall request the official advertisement to be published by the Office of Facility Planning and Control. There shall be a minimum seven-business day application period, commencing with the day of the first publication of the official advertisement and ending on the day of the deadline for receiving applications. During this period, the official advertisement shall be published in the official state journal one time. A copy of the official advertisement shall be provided to the American Council of Engineering Companies of Louisiana (formerly Consulting Engineers Council of Louisiana, Inc.) and the Louisiana Engineering Society.

B. The official advertisement specified above shall include all information required under R.S. 38:2312(A) and the tentative date and time of the board meeting at which applications will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§335. Application

A. Any applicant (proprietorship, partnership, corporation, or joint venture of any of these) meeting the requirements of R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the board deems appropriate.

B.1. The Louisiana Engineers Selection Board hereby adopts the use of the LSB-1 Form as the format for submitting an application to the board.

2. The board will accept only those applications submitted on the current edition of the LSB-1 Form. Any special information requested in the advertisement shall be submitted with the required LSB-1 Form. Any submittal not following this format will be deemed non-responsive and not considered.

3. In the LSB-1 Form, the term *prime professional* is as defined in R.S. 38:2310(9).

4. The board has the right to require proof of compliance with the above definition.

C. Consultants, if applicable, shall be listed on the submitted application form and shall possess the necessary qualifications and expertise to satisfactorily provide the services required for this project.

D. All applications shall be received on behalf of the board at the Office of Facility Planning and Control during the time prescribed in the advertisement. The secretary shall date, when received, all applications. The burden for timely and complete submittal lies solely with the applicant.

E. The submission of an application on a particular project shall be considered by the board to mean that based on all publicly available information:

1. the applicant is aware of the scope of work of the project;

2. the applicant has the necessary qualifications and expertise to satisfactorily provide the services required for the project;

3. the applicant can perform the work within the time frame stated;

4. the applicant concurs that the project budget is reasonable;

5. the fee is equitable;

6. the engineering contract shall contain a prohibition against contingent fees;

7. the applicant is familiar with the terms and conditions set forth in the current *Louisiana Capital Improvement Projects Procedure Manual for Design and Construction*, and will comply therewith;

8. should an applicant determine that any of the above items are incomplete, inadequate, or insufficient, the applicant is invited to submit a letter stating in detail the applicant's findings, and the board will consider this information in the selection process. No unsolicited additional information shall be considered. The board reserves the right to reject all applications for selection consideration and to re-advertise any official advertisement.

F. The board may, at its option and with the concurrence of the Office of Facility Planning and Control and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§337. Selection Procedure [Formerly 341]

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the applications, together with any available description of the job, to the board members.

B. The selection procedure shall be as follows.

1. The user agency shall present the scope of the project and make its recommendations, with supporting data, of an applicant or applicants for the project under consideration.

2. The board shall discuss the applications and user agency recommendations.

3. a. The board shall then take a weighted vote with points awarded as follows:

- i. first choice—three points;

- ii. second choice—two points;

- iii. third choice—one point.

- b. Each board member present shall, by written ballot vote for his/her first, second, and third choice of applicants for each project.

- c. A ballot without all three choices shall not be considered, however:

- i. where fewer than six applicants have applied, board members may vote for only a first and second choice of applicants;

- ii. where there are three or fewer applicants, board members may vote for only one applicant;

- iii. in all cases, board members may abstain from voting entirely.

4. The secretary shall tabulate these ballots aloud and report to the board the results of the balloting.

5. If, as a result of the weighted vote, an applicant receives a majority of first place votes, the selection shall be awarded to that applicant and a second ballot will not be required.

- 6.a. If, as a result of the weighted vote, the first place choice does not receive a majority of first place votes, the two applicants receiving the most points as a result of the weighted vote shall be considered nominated, and will then be voted on by written ballot with each board member having one vote. The results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote.

- b. In case of a tie for nomination under §337.B.6.a, there shall be a runoff election to reduce the nominees to two in accordance with procedures prescribed in §337.B.6.a.

7. In the event no applicant receives a majority vote for selection under §337.B.6.a, a discussion will be held, and new balloting for selection shall take place by written ballot with each board member having one vote.

8. In the event no applicant receives a majority vote for selection by a third ballot, the selected applicant shall then be decided by a coin toss conducted by the chairperson.

9. The selection of an applicant by the board shall be final unless formal charges of having submitted false information required by R.S. 38:2313 are made against the selected applicant by the Office of Facility Planning and Control, in writing, with proper accompanying documentation, to the board members and the selected applicant within seven days of the selection. When a formal charge is made, the board shall, within 10 calendar days, hold a hearing at which time the evidence of false

information shall be presented and the selected applicant shall be given the opportunity to present rebuttal. If the board determines that the charges of false information are not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project re-advertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2313.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:271 (June 1975), amended LR 6:12 (January 1980), amended LR 9:551 (August 1983), LR 11:1077 (November 1985), LR 17:661 (July 1991), LR 22:345 (May 1996), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§339. Interview Procedures for Special Projects

A. The interview procedures of the board are as follows:

1. The user agency notifies the Office of Facility Planning and Control, or the Office of Facility Planning and Control may determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Office of Facility Planning and Control, and the chairperson of the board (vice-chairperson in the absence of a chairperson) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairperson of the board authorizes the Office of Facility Planning and Control to advertise the special project under these procedures. The advertisement shall contain:

- a. the deadline for applications;
- b. the date of the meeting;
- c. the proposed interview meeting date;
- d. the information required under R.S. 38:2312(A).

4. The selection procedure (§337) will be followed from §337.A, and B.1, 2, 3, 4, and 5. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented:

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he/she is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to be interviewed.

c. Voting will end when there are a minimum of two, but not more than five applicants to be invited to be interviewed, or when the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least two applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §339.A.5, and pursuant to R.S. 42:16 and 42:17.

7. After the interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedures outlined in §337.B.5, 7, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§341. Emergency Procedures

A. The emergency procedures of the board are as follows:

1. The Office of Facility Planning and Control receives the notification of emergency from the user agency.

2. The Office of Facility Planning and Control may, after a review of the user agency's notification of emergency, notify the chairperson of the board that an emergency does exist.

3. The chairperson of the board then:

a. authorizes the advertisement;

b. directs the secretary to set the date and time for the emergency meeting for selection. The meeting shall be scheduled to occur not later than 72 hours after the advertisement is printed, not including Saturdays, Sundays, and holidays.

4. The emergency meeting will convene at the date and time designated pursuant to §339.A.3.b, to receive applications.

5. Applications will be distributed to present board members as the first order of business.

6. The meeting will then adjourn and, after a review of the applications by board members, reconvene at a time designated by the chairperson at which time selections shall be made in accordance with §327.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§343. Information [Formerly §329]

A. Any person may obtain information concerning the board, its rules, regulations, and procedures from the board's secretary at the Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804. Requests for information shall be made in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2312.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:270 (June 1975), amended LR 6:12 (January 1980), LR 9:550 (August 1983), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§345. Severability [Formerly §343]

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules that can be given effect without the invalidated provision, item, or application, and to this end, the invalidated

provision, item, or application of these rules is hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Engineers Selection Board, LR 1:271 (June 1975), amended LR 6:13 (January 1980), repromulgated LR 9:551 (August 1983), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Chapter 5. Landscape Architects Selection Board

Subchapter A. Organization

§503. Authority

A. The Louisiana Landscape Architects Selection Board shall be organized in accordance with the provisions of R.S. 38:2310, et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Architects Selection Board, LR 1:311 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§505. Objective

A. The objective of this board is to provide a system for the selection of professional services rendered by landscape architects, licensed to practice in the state of Louisiana, that is impartial, equitable, and in the best public interest of the citizens of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:311 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§507. Members

A. The board shall be composed of six members, appointed or elected, serving terms in accordance with the provisions of the authority stated in §503.

B. Any member desiring to resign from the board shall submit his/her resignation, in writing by registered mail, to The Louisiana Chapter of the American Society of Landscape Architects, Inc., with a copy addressed to the chairperson of the board. The effective date of resignation shall be the date of registered mailing to The Louisiana Chapter of the American Society of Landscape Architects, Inc.

C. The filling of a board vacancy for the unexpired term due to resignation, death, or removal from office by just cause, shall be made in accordance with the provisions of the authority stated in §503.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:312 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§509. Officers

A. The officers of this board shall be a chairperson and a vice-chairperson. These officers shall perform the duties prescribed in §503 and by these rules.

B. The chairperson shall:

1. be the presiding officer at meetings of the board;
2. have the authority to order a special meeting of the board;
3. be responsible for coordinating the activities of the board;

4. appoint all committees and serve as an ex officio member thereof;

5. authenticate by his/her signature, when necessary, all acts, orders and proceedings of the board;

6. be responsible for implementing all orders and resolutions of the board.

C. In the event of absence or incapacity of the chairperson, the vice-chairperson shall assume the duties of the chairperson as outlined above. In the absence of the secretary, the duties of the secretary shall be delegated to the vice-chairperson.

D. Nomination and election of chairperson and vice-chairperson of the board shall be held and conducted at the first regularly scheduled meeting after January 1 of each year.

E. The chairperson and vice-chairperson shall begin their terms in office immediately upon election. They shall serve a maximum of one year unless re-elected for one additional term (see §509.G).

F. In the event that the term of office of the chairperson and vice-chairperson expires in accordance with §509.E, and a meeting is called at a time when there is no duly elected chairperson and vice-chairperson, upon convening, the first order of business of the board shall be the selection of a temporary chairperson who shall serve merely for the purpose of conducting the nomination and election of chairperson and vice-chairperson. Upon election, the temporary chairpersonship automatically dissolves and the newly elected officers begin their terms in office. Nothing in this section shall prevent the temporary chairperson from either voting or being nominated for or elected to the office of chairperson or vice-chairperson.

G. No member shall hold more than one office at a time. A member may serve consecutive terms in accordance with R.S. 38:2311(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:312 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§510. Secretary

A. The office of secretary shall be furnished to the board by the Office of Facility Planning and Control, subject to approval by the board.

B. The secretary shall:

1. be under the general supervision of the board;
2. give notice of all meetings of the board and its committees to the board and general public;
3. attend all meetings of the board and committees and record the minutes of all proceedings and make the minutes and records available upon request;
4. keep on file all committee reports;
5. receive and conduct the general correspondence of the board; that is, correspondence which is not a function proper to the officers, or to committees;
6. cause the official advertisement to be advertised in accordance with R.S. 38:2312(A) and the rules of selection procedure as adopted by the board;
7. maintain and be the custodian of a file of all applications for projects, as well as all data submitted by applicants selected by the board to furnish landscape

architectural services for state projects as provided for in the rules of selection procedure;

8. perform such other duties as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§511. Meetings

A. A regular meeting of the board shall be held on the last Wednesday of January and July of each year unless such meeting is waived by the chairperson as unnecessary.

B. Special meetings may be called by the chairperson or shall be called upon the written request of a minimum of four members of the board. Special meetings may be held at any place provided that the time, the place, and the purpose of the meeting shall be stated in the call and made public in accordance with applicable laws. Except in cases of emergency, at least three days' notice shall be given for special meetings.

C. A minimum of four members of the board shall be present to constitute a quorum.

D. All meetings shall be held in public, except as provided in §528.A.6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§513. Committees

A. Committees, standing or special, shall be appointed by the chairperson of the board as he/she shall deem necessary to carry on the work of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§515. Parliamentary Authority

A. The rules contained in the current edition of *Robert's Rules of Order, Newly Revised*, shall govern the board in all cases to which they are applicable and in which they are not inconsistent with these rules of organization and any special rules of order that the board may adopt.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§517. Voting

A. Only the votes of members present at the meeting shall be counted in the board's official actions. Proxy votes on behalf of elected members are not allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§519. Amendment to Rules

A. These rules of organization may be amended at any regular or special called meeting of the board by an

affirmative vote of a simple majority of the attending board provided the proposed amendment has been submitted, in writing, at the previous regular or special meeting, and is in full compliance with the Louisiana Administrative Procedure Act and other applicable laws. Upon receipt of a proposed written amendment, the chairperson, before the next regular or special meeting, shall cause to give at least 20 days' notice of the board's intended action as provided in the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:313 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Subchapter B. Selection Procedure

§521. Public Notification

A. Upon being advised by the Office of Facility Planning and Control that an agency intends to contract for professional services, the chairperson shall request the official advertisement to be published by the Office of Facility Planning and Control. There shall be a minimum seven business day application period, commencing with the day of the first publication of the official advertisement and ending on the day of the deadline for receiving applications. During this period, the official advertisement shall be published in the official state journal one time. A copy of the official advertisement shall be provided to The Louisiana Chapter of the American Society of Landscape Architects, Inc.

B. The official advertisement specified above shall include all information required under R.S. 38:2312(A) and the tentative date and time of the board meeting at which applications will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§523. Communication with Applicant Firms

A. No member of the board shall communicate in any manner concerning a project application with any representative of an applicant firm or anyone communicating on behalf of an applicant firm. This restriction shall apply from the time advertisement of a project begins until the opening of the board meeting at which the project application will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§525. Application

A. Any applicant (proprietorship, partnership, corporation, or joint venture of any of these) meeting the requirements of R.S. 38:2310 et seq., may submit an application for selection consideration for a particular project upon which official advertisement has been published. The applicant shall submit data concerning its experience, previous projects undertaken, present state projects now being performed, scope and amount of work on hand, and any other information that the board deems appropriate.

B.1. The Louisiana Landscape Architects Selection Board hereby adopts the use of the LSB-1 Form as the format for submitting an application to the board.

2. The board will accept only those applications submitted on the current edition of the LSB-1 Form. Any special information requested in the advertisement shall be submitted with the required LSB-1 Form. Any submittal not following this format will be deemed non-responsive and not considered.

3. In the LSB-1 Form, the term *prime professional* is as defined in R.S. 38:2310(9).

4. The board has the right to require proof of compliance with the above definition.

C. Consultants, if applicable, shall be listed on the submitted application form and shall possess the necessary qualifications and expertise to satisfactorily provide the services required for this project.

D. All applications shall be received on behalf of the board at the Office of Facility Planning and Control Department during the time prescribed in the advertisement. The secretary shall date, when received, all applications. The burden for timely and complete submittal lies solely with the applicant.

E. The submission of an application on a particular project shall be considered by the board to mean that based on all publicly available information:

1. the applicant is aware of the scope of work of the project;

2. the applicant has the necessary qualifications and expertise to satisfactorily provide the services required for this project;

3. the applicant can perform the work within the time frame stated;

4. the applicant concurs that the project budget is reasonable;

5. the fee is equitable;

6. the landscape architect contract shall contain a prohibition against contingent fees;

7. the applicant is familiar with the terms and conditions set forth in the current *Louisiana Capital Improvement Projects Procedure Manual for Design and Construction*, and will comply therewith;

8. should an applicant determine that any of the above items are incomplete, inadequate, or insufficient, the applicant is invited to submit a letter stating in detail the applicant's findings, and the board will consider this information in the selection process. No unsolicited additional information shall be considered. The board reserves the right to reject all applications for selection consideration and to re-advertise any official advertisement.

F. The board may, at its option and with the concurrence of the Office of Facility Planning and Control and the user agency, conduct design competitions in accordance with nationally accepted professional standards. Final selection of the applicant from among the competition submissions will be made within 30 days of deadline date of receipt of the entries. No closed competitions will be allowed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:314 (July 1975), amended LR 5:78 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§527. Selection Procedure [Formerly §529]

A. After the deadline for applications, the Office of Facility Planning and Control shall forward copies of the

applications, together with any available description of the job, to the board members.

B. The selection procedure shall be as follows:

1. The user agency shall present the scope of the project and make its recommendations, with supporting data, of an applicant or applicants for the project under consideration.

2. The board shall discuss the applications and user agency recommendation.

- 3.a. The board shall then take a weighted vote with points awarded as follows:

- i. first choice—three points;

- ii. second choice—two points;

- iii. third choice—one point.

- b. Each board member present shall, by written ballot, vote for his/her first, second, and third choice of applicants for each project.

- c. A ballot without all three choices shall not be counted, however:

- i. where fewer than six applicants have applied, board members may vote for only a first and second choice of applicants;

- ii. where there are three or fewer applicants, board members may vote for only one applicant;

- iii. in all cases, board members may abstain from voting entirely.

4. The secretary shall tabulate these ballots aloud and report to the board the results of the balloting.

5. If, as a result of the weighted vote, an applicant receives a majority of first place votes, the selection shall be awarded to that applicant and a second ballot will not be required.

- 6.a. If, as a result of the weighted vote, the first place choice does not receive a majority of first place votes, the two applicants receiving the most points as a result of the weighted vote shall be considered nominated, and will then be voted on by written ballot with each board member having one vote. The results of this balloting shall be announced by the secretary. The applicant selected must receive a majority vote.

- b. In case of a tie for nomination under §527.B.6.a, there shall be a runoff election to reduce the nominees to two in accordance with procedures prescribed in §527.B.6.a.

7. In the event no applicant receives a majority vote for selection under §527.B.6.a, a discussion will be held, and new balloting for selection shall take place by written ballot with each board member having one vote.

8. In the event no applicant receives a majority vote for selection by a third ballot, the selected applicant shall then be decided by a coin toss conducted by the chairperson.

9. The selection of an applicant by the board shall be final unless formal charges of having submitted false information required under R.S. 38:2313 are made against the selected applicant by the Office of Facility Planning and Control, in writing, with proper accompanying documentation, to the board members and the selected applicant within seven days of the selection. When a formal charge is made, the board shall, within 10 calendar days, hold a hearing at which time the evidence of false information shall be presented and the selected applicant shall be given the opportunity to present rebuttal. If the board determines that the charges of false information are

not sufficiently documented, the selection shall become final. If the board determines that the information was false, the application will be rejected and the project re-advertised. The applicant shall be allowed to reapply.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of Governor, Landscape Architects Selection Board, LR 1:311 (July 1975), LR 1:314 (July 1975), amended LR 5:79 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§528. Interview Procedures for Special Projects

A. The interview procedures of the board are as follows:

1. The user agency notifies the Office of Facility Planning and Control, or the Office of Facility Planning and Control may determine on its own that the proposed project is of a special nature and should be considered under the interview procedure.

2. The user agency, the Office of Facility Planning and Control, and the chairperson of the board (vice-chairperson in the absence of the chairperson) shall decide if the nature of the project warrants utilizing the interview procedure. This may be done in a meeting or by teleconference.

3. The chairperson of the board authorizes the Office of Facility Planning and Control to advertise the special project under these procedures. The advertisement shall contain:

- a. the deadline for applications;
- b. the date of the meeting;
- c. the proposed interview meeting date;
- d. the information required under R.S. 38:2312(A).

4. The selection procedure (§527) will be followed from §527.A, and B.1, 2, 3, 4, and 5. However, if an applicant is not selected unanimously on the first ballot, the following procedure will be implemented:

a. After the results of the weighted ballot are reported, the board secretary will list all applicants receiving one or more points. They will be listed in order, ranked by number of points from highest to lowest.

b. After the list is prepared, there will be a roll call vote on each applicant starting with the first applicant on the list. Voting for each applicant will take place in the order that he/she is listed. Each applicant on the list will receive a "yes" or "no" vote from each board member. Each applicant that receives a majority of "yes" votes will be invited to an interview meeting.

c. Voting will end when there are a minimum of two, but not more than five applicants to be interviewed, or when the end of the list is reached, whichever comes first.

d. In the event that the end of the list is reached before there are at least two applicants to be interviewed, the board may begin voting again by the method of their choice.

e. All applicants selected by the foregoing process will be invited to an interview meeting.

5. The interview meeting will be held in accordance with criteria that the board sets forth in a letter to the applicants that have been selected to be interviewed.

6. At the interview meeting, the board will begin in an open meeting and vote to go into executive session to conduct the interviews in accordance with the criteria set forth in §528.A.5, and pursuant to R.S. 42:16 and 42:17.

7. After all interviews have been conducted, the board will return to a public meeting.

8. At this time, the selection procedure will resume according to procedure outlined in §527.B.5, 6.a, 8, and 9.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§529. Emergency Procedures

A. The emergency procedures of the board are as follows:

1. The Office of Facility Planning and Control receives the notification of emergency from the user agency.

2. The Office of Facility Planning and Control may, after a review of the user agency's notification of emergency, notify the chairperson of the board that an emergency does exist.

3. The chairperson of the board then:

- a. authorizes the advertisement;
- b. directs the secretary to set the date and time for the emergency meeting for selection. The meeting shall be scheduled to occur not later than 72 hours after the advertisement is printed, not including Saturdays, Sundays, and holidays.

4. The emergency meeting will convene at the date and time designated pursuant to §529.A.3.b to receive applications.

5. Applications will be distributed to present board members as the first order of business.

6. The meeting will then adjourn and, after a review of the applications by the board members, reconvene at a time designated by the chairperson at which time selections shall be made in accordance with §527.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§533. Information

A. Any person may obtain information concerning the board, its rules, regulations, and procedures from the board's secretary at the Office of Facility Planning and Control, P.O. Box 94095, Baton Rouge, LA 70804. Requests for information shall be made in writing. There may be a nominal fee charged to defray the cost of information furnished. Said fee shall be set by the Office of Facility Planning and Control, with the approval of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Facility Planning and Control, LR 45:

§535. Severability

A. If any provision or item of these rules or the application thereof is held invalid, such invalidity shall not affect other provisions, items, or applications of these rules that can be given effect without the invalidated provision, item, or application, and to this end, the invalidated provision, item, or application of these rules is hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:315 (July

1975), repromulgated LR 5:79 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:

Family Impact Statement

1. The Effect of this Rule on the Stability of the Family. This Rule will have no foreseeable effect on the stability of the family.

2. The Effect of this Rule on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. This Rule will have no foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect of this Rule on the Functioning of the Family. This Rule will have no foreseeable effect on the functioning of the family.

4. The Effect of this Rule on Family Earnings and Family Budget. This Rule will have no foreseeable effect on family earnings and family budget.

5. The Effect of this Rule on the Behavior and Personal Responsibility of Children. This Rule will have no foreseeable effect on the behavior and personal responsibility of children.

6. The Effect of this Rule on the Ability of the Family or Local Government to Perform the Function as Contained in the Proposed Rule. This Rule will have no foreseeable effect on the ability of the family or local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed rulemaking will have no foreseeable impact on poverty as described in R.S. 49:973.

Small Business Analysis

The Office of Facility Planning and Control has considered all methods of reducing the impact of the proposed rule on small business as noted in R.S. 49:965.6, and have determined the proposed Rule will have no foreseeable impact on small business.

Provider Impact Statement

The proposed Rule will have no foreseeable impact providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit comments to Barry Hickman, Facility Planning and Control, 1450 Poydras St., Suite 1130, New Orleans, LA 70112. Written comments will be accepted through July 10, 2019.

Mark A. Moses
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Landscape Architects Selection Board, Engineers Selection Board, and Landscape Architects Selection Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no anticipated implementation costs or savings for state or local governmental units as a result of the proposed rule changes. The proposed updated rules amend the language of the Architects Selection Board, Engineers Selection Board, and Landscape Architects Selection Board rules to correct, update, coordinate, and improve the processes in keeping with the three selection boards' purposes. The proposed amended

rules apply to the following aspects of the three Selection Boards: officers, election of officers, officer terms, meetings, parliamentary authority, applications, interview procedures, voting and selection procedure, emergency procedures, and communication.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on state or local governmental revenues as a result of this measure.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated material impact to directly affected persons or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated direct material effect on competition and employment as a result of the proposed administrative rules. The rule change should correct, update, coordinate, and improve the selection process of design professionals as required by Title 38.

Mark A. Moses
Director
1906#012

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Ambulance (LAC 35:III.5713)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to adopt LAC 35:III.5713 by notice of intent. The proposed rule additions and amendments will impact racing associations in Louisiana by requiring them to provide two ambulances during racing hours, one during training hours, each properly equipped to provide emergency medical services and transport, including advanced life support equipment. In addition, the proposed Rule requires that, if both ambulances are being used for transport, the association cannot conduct a race until one is replaced. The proposed Rule also requires racing associations to designate an area that a helicopter can land in the occurrence one is required to transport an injured participant.

Title 35

HORSE RACING

Part III. Personnel, Registration and Licensing Chapter 57. Associations' Duties and Obligations §5713. Ambulance

A. Each association shall provide two ambulances during its racing hours and one ambulance during training hours. During such time, the ambulance shall be ready for duty, properly equipped to provide emergency medical services and transport, including advanced life support equipment, a registered paramedic, a certified emergency medical technician, and shall have immediate access to the racing strip. If both the ambulances are being used to transport individual(s), the association shall not conduct a race, or

allow horses with riders on the racetrack until at least one of the ambulances is replaced.

B. Unless otherwise approved by the commission or the stewards, an ambulance shall follow the field at a safe distance during the running of races.

C. The ambulance shall be parked at an entrance to the racing strip except when the ambulance is being used to transport an individual or when it is following the field during the running of a race.

D. Each association shall also provide a designated area that a helicopter can land in the case where a helicopter is required to transport an injured participant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 9:546 (August 1983), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 44:914 (May 2018), LR 45:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Rhea Loney, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Ambulance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in any costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule additions and amendments will impact racing associations in Louisiana by requiring them to provide two ambulances during racing hours, one during training hours, each properly equipped to provide emergency medical services and transport, including advanced life support equipment. In addition, the rule requires that, if both ambulances are being used for transport, the association cannot conduct a race until one is replaced. The rule also requires racing associations to designate an area that a helicopter can land in the occurrence one is required to transport an injured participant.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1906#006

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Pick Five or Pick Six (LAC 35:XIII.11001 and 11003)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to repeal LAC 35:XIII.11001 and 11003. The proposed repeal of LAC 35:XIII.Chapter 110 "Pick Five or Pick Six" would be replaced by the proposed administrative rule LAC 35:XIII.Chapter 116, "Pick N", which will provide similar exotic wagers as the current LAC 35:XIII.Chapter 110 "Pick Five or Pick Six". The proposed LAC 35:XIII.Chapter 116, "Pick N", not only provides for a similar wager as the current Pick Five or Pick Six, but additional possible wagers that the track can structure in a manner that they believe will increase the wagering by the betting public on the horse races.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 110. Pick Five or Pick Six

§11001. Pick Five

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 38:1408 (June 2012), repealed LR 45:

§11003. Pick Six

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, R.S. 4:149.2, and R.S. 4:149.3.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 39:2493 (September 2013), repealed LR 45:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Rhea Loney, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pick Five or Pick Six

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed repeal of LAC 35:XIII.Chapter 110 "Pick Five or Pick Six" would be replaced by the proposed administrative rule LAC 35:XIII.Chapter 116, "Pick N", which will provide similar exotic wagers as the current LAC 35:XIII.Chapter 110 "Pick Five or Pick Six".

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable increase in revenue collections by state and local governmental units as the state and local governments tax a percentage of all amounts wagered at licensed racetracks in Louisiana. To the extent Evangeline Downs, Fair Grounds Race Course, Delta Downs and Louisiana Downs offer the proposed exotic wager "Pick N", found in LAC 35:XIII.Chapter 116, rather than the proposed wager that is being repealed, LAC 35:XIII.Chapter 110 "Pick Five or Pick Six", state and local government revenue collections may increase by an indeterminable amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule change may result in an indeterminable economic benefit to licensed racetracks in Louisiana by offering the proposed exotic wager "Pick N", found in LAC 35:XIII.Chapter 116, rather than the proposed wager that is being repealed, LAC 35:XIII.Chapter 110 "Pick Five or Pick Six", which may result in increased wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1906#007

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Division of Administration Racing Commission

Pick N (LAC 35:XIII.Chapter 116)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 4:148, notice is hereby given that the Racing Commission proposes to amend LAC 35:XIII.11601, 11609, and 11625. Notice is hereby given that the Racing Commission proposes to repeal LAC 35:XIII.11611, 11613, and 11621. The proposed rule is an amendment of the pari-mutuel wager, Pick N, wherein a bettor picks the winning horse in a variable number of consecutive horse races. The proposed rule allows for the licensed racetrack, when applying for its operating license, to apply to utilize one of the nine methods set forth in the Pick N rule, specifically §11609. These nine different methods each provide a different manner of carryover pool and the pay outs.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 116. Pick N

§11601. Description; Selection; Principle

A. The Pick N is a form of pari-mutuel wagering where N is a varying number of races exceeding three races. Bettors select the first horse in each of N consecutive races designated as the Pick N by the permit holder. The principle of a Pick N is in effect a contract by the purchaser of a Pick N ticket to select the winners of each of the N races designated as the Pick N. The sale of Pick N tickets other than from pari-mutuel machines shall be deemed illegal and is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:869 (May 2008), LR 45:

§11609. Procedure

A. The Pick N requires selection of the first-place finisher in each of a designated number of contests. The association shall submit their request for Pick N pool wagering in writing to the commission at the time of application for race dates and include the request in their wagering format application. The association must obtain written approval from the commission concerning the scheduling of Pick N contests, the designation of one of the methods prescribed in Subsection B, and the amount of any cap to be set on the carryover. Any changes to the approved Pick N format require prior approval from the commission at the time of application for race dates.

B. The Pick N pool shall be apportioned under one of the following methods:

1. Method 1, Pick N with Carryover: The net Pick N pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool shall be distributed as a single

price pool to those who selected the first-place finisher in the greatest number of Pick N contests; and the remainder shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

2. Method 2, Pick N with 100 percent Carryover: The net Pick N pool and carryover, if any, shall be distributed as a single price pool to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there are no such wagers, then 100% of that day's net pool shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

3. Method 3, Pick N with Minor Pool and Carryover: The major share of the net Pick N pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the minor share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests; and the major share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool.

4. Method 4, Pick N with No Minor Pool and No Carryover: The net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded.

5. Method 5, Pick N with Minor Pool and No Carryover: The major share of the net Pick N pool shall be distributed to those who selected the first place finisher in the greatest number of Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick N contests, the minor share of the net Pick N pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded.

6. Method 6, Pick N with Minor Pool and No Carryover: The major share of net Pick N pool shall be

distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The minor share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick N contests, the entire net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick N contests, the minor share of the net Pick N pool shall be combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick N contests. If there are no winning wagers, the pool is refunded.

7. Method 7, Pick N with Carryover and "Unique Winning Ticket" Provision: The net Pick N pool and carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there is no unique ticket selecting the first-place finisher in each of the Pick N contests, or if there are no wagers selecting the first-place finisher of all Pick N contests, the minor share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, and the major share shall be added to the carryover. Associations may suspend previously approved unique winning ticket wagering with the prior approval of the commission. Any carryover shall be held until the suspended unique winning ticket wagering is reinstated. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool amount, if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick N pool under this subsection, associations must clearly identify which definition under Subsection L will be relied upon for determining the existence of a unique winning ticket.

8. Method 8, Pick N with the Pool split into three shares, one share having a Carryover: The share percentages are determined by the pool host and approved by the commission. The first share of the net Pick N pool and the carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The second share of the net Pick N pool shall be distributed to those who selected (N-1) of the Pick N contests, based upon the official order of finish and a third share of the Pick N pool shall be distributed to those who selected (N-2) of the Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the first share shall be added to the carryover. If there are no wagers selecting (N-1) of the Pick N contests, this second share shall be added to the carryover. If there are no wagers selecting (N-2) of the Pick N contests, this third share shall be added to the carryover. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool

amount, if any, shall be carried over to the next scheduled corresponding pool.

9. Method 9, Pick N with the pool split into three shares, with Carryovers, and a Unique Winning Ticket Provision: The share percentages are determined by the pool host and approved by the commission. The first share of the net Pick N pool and the first share carryover, if any, shall be distributed to those who selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. The second share of the net Pick N pool shall be distributed to those who selected the first-place finisher in the second greatest number of Pick N contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher of all Pick N contests, the second share of the net Pick N pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests, and the first share shall be added to the first share carryover. The third share and the third share carryover, if any, shall be distributed to the holder of a unique winning ticket that selected the first-place finisher in each of the Pick N contests, based upon the official order of finish. If there is no unique winning ticket selecting the first-place finisher in each of the Pick N contests, the third share shall be added to the third share carryover. For greater certainty, the holder of a unique winning ticket shall receive both the first share, and first share carryover, if any as well as the third share, and the third share carryover, if any. Where there is no correct selection of the first-place finisher in at least one of the Pick N contests, based upon the official order of finish, the day's net pool shall be refunded and the previous carryover pool(s) amount(s), if any, shall be carried over to the next scheduled corresponding pool. In obtaining authorization for operating the Pick N pool under this subsection, associations must clearly identify which definition under paragraph 16(b) will be relied upon for determining the existence of a unique winning ticket.

C. If there is a dead heat for first in any of the Pick N contests involving:

1. contestants representing the same betting interest, the Pick N pool shall be distributed as if no dead heat occurred.

2. contestants representing two or more betting interests, the Pick N pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

D. If a wagering interest is "scratched" for a Pick N contest, or is designated to run for purse money only, the association shall use the actual favorite, as evidenced by total amounts wagered in the Win pool at the host association for the contest at the close of wagering on that contest, and shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

E. Subject to Subsection I, J or L, the Pick N pool shall be cancelled and all Pick N wagers for the individual performance shall be refunded if:

1. at least three contests included as part of a Pick 4 N, Pick 5 N or Pick 6 N are cancelled or declared no contest.

2. at least four contests included as part of a Pick 7 N, Pick 8 N or Pick 9 N are cancelled or declared no contest.

3. at least five contests included as part of a Pick 10 N are cancelled or declared no contest.

F. Subject to Subsection I, J or L, if at least one contest included as part of a Pick N is cancelled or declared no contest, but not more than the number specified in Subsection E of this Section, the net pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick N contests for that performance. Such distribution shall include the portion ordinarily retained for the Pick N carryover but not the carryover from previous performances.

G. If the condition of the course warrants a change of racing surface in any of the legs of the Pick N races, and such change was not known to the public prior to the closing of wagering for the Pick N pool, the stewards shall declare the changed leg(s) a no contest for Pick N wagering purposes only.

H. The Pick N carryover may be capped at a designated level approved by the commission so that if, at the close of any performance, the amount in the Pick N carryover equals or exceeds the designated cap, the Pick N carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick N carryover is frozen, 100 percent of the net pool, part of which ordinarily would be added to the Pick N carryover, shall be distributed to those whose selection finished first in the greatest number of Pick N contests for that performance. Any request for a designated cap shall be submitted to the commission in writing at the time of application for race dates and included in the wagering format application.

I. Any request for permission to distribute the Pick N carryover on a specific performance shall be submitted to the commission in writing at the time of application for race dates and included in their wagering format application. The request must be for a specified date.

J. Should the Pick N carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick N contests, the entire pool shall be distributed as a single price pool to those whose selection finished first in the greatest number of Pick N contests. The Pick N carryover shall be designated for distribution on a specified date and performance only under the following circumstances:

1. Upon written approval from the commission as provided in Subsection H of this rule.

2. On the closing performance of the meet or split meet.

K. Unless otherwise stated in writing by the commission under Subsection I, on the last Pick N race on the final day of the meeting, the net pool, including any applicable carryover, shall be distributed as a single price pool to those

who selected the first-place finisher in the greatest number of Pick N contests, based upon the official order of finish.

L. As it relates to any distribution method under section 2 which contains a unique winning ticket provision:

1. A written request for permission to distribute the Pick N unique winning ticket carryover on a specific performance shall be submitted to the commission in writing at the time of application for race dates and included in their wagering format application.. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. Should the Pick N unique winning ticket net pool and any applicable carryover be designated for distribution on a specified date and performance in which there is no unique winning ticket, the entire pool shall be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick N contests.

2. Associations must clearly identify which selection under Subparagraphs a and b below will be relied upon for determining the existence of a unique winning ticket:

a. there is one and only one winning ticket that correctly selected the first place finisher in each of the Pick N contests, based upon the official order of finish, to be verified by the unique serial number assigned by the tote company that issued the winning ticket; or

b. the total amount wagered on one and only one winning combination selecting the first-place finisher in each of the Pick N contests, based up on the official order of finish, is equal to the minimum allowable wager.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1014 (May 2002), amended LR 34:870 (May 2008), LR 45:

§11611. No Winning Ticket

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:

§11613. Cancelled Races

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:

§11621. Scratches and Non-Starters

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:870 (May 2008), repealed LR 45:

§11625. Unforeseen Circumstances

A. Should circumstances occur which are not foreseen in these rules, questions arising thereby shall be resolved by the association and when possible, with approval by the commission in accordance with general pari-mutuel

practices. Decisions regarding distribution of the Pick N pools shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1 and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Racing Commission, LR 28:1015 (May 2002), amended LR 34:871 (May 2008), LR 45:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Poverty Impact Statement

This proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This proposed Rule has no known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

This proposed Rule has no known impact on providers of services for individuals with developmental disabilities.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m. Monday - Friday, and interested parties may submit oral or written comments, data, views, or arguments relative to this proposed Rule for a period up to 20 days (exclusive of weekends and state holidays) from the date of this publication to Rhea Loney, Assistant Attorney General, 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pick N

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no anticipated direct material effect on state or local governmental units as a result of the proposed administrative rule. The proposed rule provides for similar exotic wagers as the current Pick-N wager, but will provide for a total of 9 possible methods of a Pick-N wager for the licensed racetrack to offer to the betting public, rather than one single Pick-N method.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change may result in an indeterminable increase in revenue collections by state and local governmental units as the state and local governments tax a percentage of all amounts wagered at licensed racetracks in Louisiana. To the extent Evangeline Downs, Fair Grounds Race Course, Delta Downs and Louisiana Downs offer the proposed exotic wager "Pick N", found in LAC 35:XIII.Chapter 116, state and local government revenue collections may increase by an indeterminable amount.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed administrative rule change may result in an indeterminable possible economic benefit to licensed racetracks in Louisiana by offering more wagering possibilities though a Pick-N wager, which may result in increased wagering.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition and employment as a result of the proposed administrative rule change.

Charles A. Gardiner, III
Executive Director
1906#008

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Termination of Radiology Utilization Management Services (LAC 50:V.6105 and XIX.4501)

The Department of Health, Bureau of Health Services Financing proposes to repeal LAC 50:V.6105 and XIX.4501 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950, et seq.

The Department of Health, Bureau of Health Services Financing adopted provisions governing radiology utilization management (RUM) in laboratory and radiology services and outpatient hospital services to implement a prior authorization requirement for certain outpatient high-tech imaging services in order to reduce unnecessary radiology studies (*Louisiana Register*, Volume 35, Number 12) and (*Louisiana Register*, Volume 33, Number 1). The department now proposes to repeal the provisions governing RUM in order to align with current fee-for-service and managed care practices relative to prior authorization of high-end radiology services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospital Services

Chapter 61. Other Outpatient Hospital Services

Subchapter A. General Provisions

§6105. Radiology Utilization Management

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:67 (January 2010), amended LR 36:1782 (August 2010), repealed by Department of Health, Bureau of Health Services Financing, LR 45:

Part XIX. Other Services

Subpart 3. Laboratory and Radiology Services

Chapter 45. Radiology Utilization Management

§4501. General Provisions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:2758 (December 2009), amended LR 36:1781 (August 2010), repealed by Department of Health, Bureau of Health Services Financing, LR 45:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Jen Steele, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Steele is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2019.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 10, 2019. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 25, 2019 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-9037 after July 10, 2019. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Rebekah E. Gee MD, MPH
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Termination of Radiology Utilization
Management Services**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 18-19. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 18-19 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections other than the federal share of the promulgation costs for FY 18-19. It is anticipated that \$270 will be collected in FY 18-19 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule repeals the provisions in Outpatient Hospital Services and Laboratory and Radiology Services governing Radiology Utilization Management (RUM) to align with current fee-for-service and managed care practices relative to prior authorization (PA) of high-end radiology services. The department terminated the RUM program with the implementation of managed care since the managed care organizations have their own PA requirements and current fee-for-service Medicaid policy does not require PA for these services. It is anticipated that implementation of this proposed rule will not result in costs to providers of outpatient hospital services and laboratory and radiology services in FY 18-19, FY 19-20 and FY 20-21, but will be beneficial by ensuring that these provisions are accurately promulgated in the Louisiana Administrative Code.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Jen Steele
Medicaid Director
1906#025

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor Division of Administration

PPM 49—General Travel Regulations
(LAC 4:V.Chapter 15)

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2019. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

Please note that when political subdivisions are required to follow PPM 49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis (R.S. 39:231.B). The Commissioner of Administration, with the approval of the governor, shall, by rule or regulation prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 42:981 (July 2016), LR 43:1110 (June 2017), LR 45:811 (June 2019).

§1502. Definitions

A. For the purposes of this PPM, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his/her designee is allowed to deem persons as an authorized traveler for official state business only.

NOTE: College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. Documentation of all approvals must be maintained on file with the agency.

Allowance—maximum amount allowed for travel expenses while traveling on official state business.

Conference/Convention—an event (other than routine) for a specific purpose and/or objective. Non-routine event can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare, registration, lodging, rental vehicles, pre-paid shuttle service and any other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy. Each department head determines the extent of the account's use.

Corporate Travel Card—credit cards issued in a state of Louisiana employee's name used for specific, higher cost official business travel expenses. Corporate travel cards are state liability cards, paid by each agency.

Emergency Travel—each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate documentation, under extraordinary circumstances when

PPM 49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

Executive Traveler—the governor of the state of Louisiana. He/she should sign as the traveler but have his/her Chief of Staff and director of budget sign for travel authorization and travel expenses.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the traveler's official domicile.

Higher Education Entities—entities listed under Schedule 19, Higher Education of the General Appropriations Bill.

Higher Education Entity Head—president of a university.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam and Saipan.

Lowest Logical Airfare—The lowest logical airfare is the cheapest available at the time of booking without causing undo inconvenience, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, at a minimum, the city limits in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as parish or region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the city in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. a traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. the official domicile of a person located in the field shall be the city or town nearest to the area where the majority of work is performed, or such city, town, or area as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person;

d. the department head or his/her designee may authorize approval for an employee lodging expenses to be placed on agency CBA or state LaCarte/or travel card within an employee's domicile with proper justification as to why this is necessary and in the best interest of the state.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam, and Saipan.

Passport—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

Per Diem—a flat rate paid in lieu of travel reimbursements for people on extended stays only.

Receipts/Document Requirements—supporting documentation, including original receipts, must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

Routine Travel—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

State Employee—employee below the level of state officer.

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the *Louisiana Revised Statutes*, and the equivalent positions in higher education and the office of elected officials.

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct traveled route must be used by official state travelers.

Travel Scholarships—if any type of scholarship for travel is offered/received by a state traveler, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements (see R.S. 42:1123).

Traveler—a state officer, state employee, or authorized person performing authorized travel.

Visa—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

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§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions/deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration.

4. Department Heads must submit fiscal year exemption request(s) annually. No exemption request(s) is granted on a permanent basis.

5. Contracted Travel Service. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration, Office of State Travel, prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can and should be used by all travelers for booking airfare. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

5. Contracted Hotel Services. The state has a contract for hotel services, with HotelPlanner,

NOTE: Travelers will be responsible for adhering to hotel's cancellation policy that is set by the hotel when booking through Hotelplanner. If a traveler does not cancel a hotel stay within the cancellation time frame that is set by the hotel, the traveler will be responsible for payments. No exceptions unless approval is granted from the Commissioner of Administration.

6. Contracted Vehicles Rentals. The state has a contract for all rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory.

a. The state has contracts for all out-of-state rental vehicles which use is mandatory. Travelers shall use Hertz, Enterprise, or National for business travel. These contracts are also applicable to all authorized travelers, and contractors.

7. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

8. Authorization to Travel

a. All non-routine travel must be authorized with prior approvals in writing by the head of the department, board, or commission from whose funds the traveler is paid. A file shall be maintained, by the agency, on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest and to obtain prior approval for annual routine travel. A prior approved travel authorization is still required for non-routine meetings, conferences and out-of-state travel. No agency/university/board may have a blanket authorization for out of state travel.

c. Executive traveler must sign as the traveler but have his/her chief of staff and director of budget sign for travel authorization and travel expenses.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses not covered by the corporate travel card, LaCarte

purchasing card, if applicable, and/or agency's CBA account. Advance of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel expense form covering the related travel, no later than the fifteenth day of the month following the completion of travel.

2. Exemptions. Cash advance(s) meeting the exception requirement(s) listed below, must have an original receipt to support all expenditures in which a cash advance was given, including meals. At the agency's discretion, cash advances may be allowed for:

a. State traveler whose salary is less than \$30,000/year;

b. State traveler who accompany and/or are responsible for students or athletes for a group travel advance;

NOTE: In this case and in regards to meals, where there are group travel advancements, a roster with signatures of each group member along with the amount of funds received by each group member, may be substituted for individual receipts (This exception does not apply when given for just an individual employee's travel which is over a group.)

c. state travelers who accompany and/or responsible for client travel;

d. new employees who have not had time to apply for and receive the state's corporate travel card;

e. employees traveling for extended periods, defined as 30 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. lodging purchase, if hotel will not allow direct bill or charges to agency's CBA and whose salary is less than \$30,000/year;

h. registration for seminars, conferences, and conventions;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures and whose salary is less than \$30,000/year.

NOTE: For agencies/boards/universities participating in the LaCarte/Travel CBA card programs, group travel must be placed on one of the card programs. This does not eliminate any approvals that must be granted from the Commissioner of Administration and/or Office of State Travel.

3. Sponsored Travel, as related to Act 200, revised August 2018, requires completion of Ethics Disclosure Form 413. It is the traveler's responsibility to properly complete and submit to the Board of Ethics in the time required. The form can be downloaded from <http://ethics.la.gov/pub/CampFinan/Forms/Form413f.pdf?20190402>.

4. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

5. CBA (controlled billed account) issued in an agency's name, and paid by the agency may be used for airfare, registration, rental cars, prepaid shuttle charges, lodging and any allowable lodging associated charges such

as parking and internet charges. Other credit cards issued in the name of the state agency are not to be used without written approval.

6. No Reimbursement when No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on the state's Travel Expense Form, BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. In all cases the date and hour of departure from and return to domicile must be shown, along with each final destination throughout the trip clearly defined on the form. On the state's Travel Authorization Form GF-4, the second page must be completed with breakdown of the estimated travel expenses. This is necessary for every trip, not just when requesting a travel advance. For every travel authorization request, the "purpose of the trip" for travel must be stated in the space provided on the front of the form.

2. Except where the cost of air transportation, registration, lodging, rental vehicles, shuttle service, and all other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy are invoiced directly to the agency or charged to a state liability card, any and all expenses incurred on any official trip shall be paid by the traveler and his travel expense form shall show all such expenses in detail so that the total cost of the trip shall be reflected on the travel expense form. If the cost of the expenses listed above are paid directly or charged directly to the agency/department, a notation will be indicated on the travel expense form indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler must provide receipts, for all items charged or billed direct to the agency.

3. In all cases, and under any travel status, cost of meals shall be paid by the traveler and claimed on the travel expense form for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee, allowed under the State Liability Travel, CBA and/or LaCarte Purchasing Card Policy or with written approval from the Office of State Purchasing and Travel. A file must be kept containing all of these special approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$25 is due. Department heads, at their discretion, may make the 30-day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct.

Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

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§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered should be length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: at least two hours of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b.i. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

(a). at the rate of \$1.26 per mile; or

(b). at the lesser of coach economy airfare.

ii. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines (receipts required). All state travelers are to purchase commercial airline tickets through the state contracted travel agency (see front cover for contract travel agency contact numbers). This requirement is mandatory unless approval is granted from the Office of State Travel. (In the event travelers seek approval to go

outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.)

a. While state contractors are not required to use the state's contracted travel agency when purchasing airfare, it will be the agency's responsibility to monitor cost ensuring that the contractor(s) are purchasing the lowest, most logical airfare.

b. The state always supports purchasing the "best value" ticket. Therefore, once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$200) would still be the best value.

i. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

ii. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be about 10 to 14 days in advance of travel dates to ensure the lowest fares are available.

NOTE: Cost of a preferred or premium seat is not reimbursable. To avoid these charges or to avoid being bumped, a traveler must check in as early as possible. A traveler should check-in online 24 hours prior to a flight or check-in at the airport several hours prior to departure to obtain a seat assignment. Please be aware that it is a strict airline policy that a traveler must check-in, at a minimum, prior to 30 minutes of departure. The airlines are very strict about this policy. Airline rules typically state that if you don't arrive at least 30 minutes before the scheduled departure, you may forfeit your reservation. The earlier you arrive at the gate increases the chances of retaining your original reservation and assurance of a seat on the flight purchased.

c. Commercial air travel will not be reimbursed in excess of lowest logical airfare when it has been determined to be the best value (receipts required). The difference between coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without prior approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline or contracted travel agency indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel expense form.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel expense form.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline fee of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

h. Employees may retain hotel reward points and frequent flyer miles, earned on official state travel, unless an agency deems them property of the state. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

i. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agency could result in them securing that rate for your travel.

j. Tickets which are unused by a traveler should always be monitored by the traveler and the agency. Traveler should ensure that any unused ticket is considered when planning future travel arrangements. Some airlines have a policy which would allow for a name change to another employee within the agency. A view of the latest airline policies regarding unused tickets are available at the State Travel Office's website <http://www.doa.la.gov/Pages/osp/Travel/af-index.aspx>.

i. Ultimately, it is the traveler's responsibility to determine, upon initial notification of an unused ticket and then every 30 days thereafter, if they will be utilizing the unused ticket. If it is determined that the ticket will not be utilized prior to expiration and there is a possibility to transfer the ticket, the traveler must immediately advise the agency travel administrator that the ticket is available for use by another employee, section or agency. The traveler administrator should then act accordingly.

ii. In addition, the department head, at a minimum of three months prior to expiration, must review all unused airfare to determine, based on the traveler's justification, if reimbursement from the traveler must be made to the agency for the amount of the unused ticket. All files must be properly documented.

iii. This may be accomplished with the unused ticket report sent to each agency program administrator each month from the contracted travel agency. This report in conjunction with employee notifications while booking other flights and employee email notifications every 90, 60, 30 and 14 days prior to ticket expiration should be more than sufficient to reduce the loss of reusable airfare.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major or minor, shall be reported first to the local police department or appropriate law

enforcement agency. In addition, an accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and must be returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

2.a. Operating a state owned vehicle, state-rented vehicle or state-leased vehicle or operating a non-state-owned vehicle for state business while intoxicated as set forth in R.S. 14:98 and 14:98.1 is strictly prohibited, unauthorized, and expressly violates the terms and conditions of use of said vehicle. In the event such operation results in the employee being convicted of, pleading nolo contendere to, or pleading guilty to driving while intoxicated under R.S. 14:98 and 14:98.1, such would constitute evidence of the employee:

- i. violating the terms and conditions of use of said vehicle;
- ii. violating the direction of his/her employer; and
- iii. acting beyond the course and scope of his/her employment with the state of Louisiana.

b. Personal use of a state-owned, state-rented or state-leased vehicle is not permitted.

3. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is a classified or unclassified state officer or employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval and is deemed as an "authorized traveler" on behalf of the state, from the department head or his designee to operate or travel in vehicle on official state business only. A file must be kept containing all of these approvals.

4. Any persons who are not official state employees, as define above must sign an Acknowledgement of non-state employees utilizing state vehicles form, located at the Office of State Travel's website, <http://www.doa.la.gov/osp/Travel/forms/nse-acknowledgement.pdf> prior to riding in or driving a state-owned vehicle or rental vehicle on behalf of the State. Each agency is responsible in ensuring that this along with any other necessary documents and requirements are completed and made part of the travel file prior to travel dates.

5. Students not employed by the state shall not be authorized to drive state-owned or rented vehicles for use on official state business. A student may be deemed as an "authorized traveler" on behalf of the state by the department head or his designee. An authorized traveler can be reimbursed for their travel expenses. The acknowledgement of non-state employees utilizing state vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel must be signed as part of the approval process. A file must be kept containing all of these approvals.

6. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental

company would be liable for any cost associated with these types of violations.

7. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. If traveler utilizes anything other than regular unleaded gasoline unless vehicle requires diesel, or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rates. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files. When the use of a state- owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience; the traveler is personally responsible for any other expense in- route to and from their destination, which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally, owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that the unauthorized person is part of the official state business and the passenger (or passenger's guardian) signs an acknowledgement of non-state employees utilizing state vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state travler overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

8. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. At the discretion of the Department head or his/her designee, mileage to and from airport(s) may be allowed while on official state business. This approval may include reimbursement for an employee who is being dropped off and/or picked up from airports. Reimbursement may not exceed a maximum of 99 miles per round trip and/or day at a

rate of .58 cents per mile. Personal vehicle mileage reimbursements require an odometer reading or website mileage calculator.

c. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable at no more than \$0.58 per mile, based on actual physical addresses and in accordance with the following.

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the State's in-state contract Enterprise-Rent-A-Card if a state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day (day or the return to domicile) at \$0.58 per mile.

Please note that mileage is applicable for round trip (multiple days) and/or round trip (one day).

Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.

Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

c. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc. Employee is to print the page indicating a physical address, mileage and attach it with his/her travel expense form.

d. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage, while the employee is on official state travel status, to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at \$0.58 per mile. See example in Subparagraph C.8.b above.

e. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within

the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at \$0.58 per mile. See example in Subparagraph C.8.b above.

f. Reimbursements will be allowed on the basis of \$0.58 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employee's point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See example in Subparagraph C.8.b above.

g. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for mileage on the basis of \$0.58 per mile only not to exceed a maximum of 99 miles per round trip and/or day. If prior approval for reimbursement of actual mileage is requested and granted by the Commissioner of Administration, the total cost of the mileage reimbursement may never exceed the cost of a rental vehicle or the cost of travel by using the lowest logical airfare obtained at least 14 days prior to the trip departure date, whichever is the lesser of the two. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses, however, mileage reimbursement over 99 miles would still require prior approval from the Commissioner of Administration's approval. In this case, once approval is obtained from the Commissioner of Administration to exceed 99 miles, then the department head may authorize actual mileage reimbursements. File should be justified accordingly.

h. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request prior authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year. A centralized file must be kept containing all approvals.

NOTE: Once someone is given a monthly vehicle allowance or lump sum allowance, they are not to be reimbursed for mileage, fuel or rental vehicles. Rental could be allowed only when flying out of state.

i. In all cases, the traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

j.i. The only exemptions which would not require the Commissioner of Administration's prior approval for actual mileage exceeding 99 miles are for:

(a). members of boards and commissions, not administration/office personnel.

(b). Students who are traveling on a grant, scholarship, and any other occasion where the student's use of a personal vehicle is the best and/or only method of transportation available.

ii. Although the Commissioner's approval is not necessary, Department head approval is still required.

9. **Rented Motor Vehicles (Receipts Required).** Any rental vehicles not covered in the state's in-state or out-of-state contracts should be bid in accordance with proper purchasing rules and regulations. The state has a contract for all vehicle rentals based out of Louisiana through Enterprise Rent-A-Car, which use is mandatory for business travel. This contract is applicable to all authorized travelers, and contractors. The state has contracts for out-of-state vehicles rentals. Travelers shall use Hertz, Enterprise-Rent-A-Car, or National which use is mandatory for business travel. These contracts are also applicable to all authorized travelers, and contractors.

a. **In-State Vehicle Rental.** The state has contracted for all rentals based out of Louisiana through Enterprise Rent-A-Car's State Motor Pool Rental Contract, which use is mandatory, for business travel which applies to all state of Louisiana employees and/or authorized travelers, contractors, etc. traveling on official state business.

i. A rental vehicle should be used, if a state owned vehicle is not available, for all travel over 99 miles. All exemptions must be requested and granted by the Commissioner of Administration for reimbursements which exceed 99 miles prior to the trip. Requests for exemption must be accompanied by a detailed explanation as to why a rental is not feasible. If an exemption from the program is granted by the Commissioner of Administration as stated above, then the employee will not be required to rent a vehicle and may receive actual mileage reimbursement up to \$0.58 per mile.

ii. All state contractors, who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM 49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the State.

iii. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.58 per mile.

iv. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required. Board and commission members may receive actual mileage reimbursement of no more than \$0.58 per mile.

v. For trips of 100 miles or more, any employee and/or authorized traveler, should use a state owned vehicle or rental from Enterprise Rent-A-Car State Motor Pool Rental Contract, when a state vehicle is not available.

vi. For trips of less than 100 miles employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at \$0.58 per mile or may rent a vehicle from Enterprise Rent-A-Car's State Motor Pool Rental Contract.

vii. Reservations are not to be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rental charges. An employee must purchase gasoline with the State's Fuel Card or any other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid Fuel Options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are not allowed. If traveler utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory-mandated grade, without justification and prior approval from the agency Department Head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the State's fuel/repair contract(s), terms and conditions as well as locations of vendors.

b. Payments Rentals through the State Motor Pool Rental Contract may be made using the "LaCarte" purchasing card, an agency's CBA account, an employee's state corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise. An account may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com.

c. **Out-of-State Vehicle Rental.** The state has contracted for rental vehicles for domestic and out-of-state travel, excluding Louisiana and international travel, utilizing the state of Louisiana's out-of-state contracts, which use is mandatory. All state of Louisiana employees and/or authorized travelers, contractors are mandated to use these contracts due to exceptional pricing which includes CDW (Collision Damage Waiver) and \$1,000,000 liability insurance. The state of Louisiana out-of-state participating vendors include Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler's discretion which rental company is utilized.

d. All state contractors who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

e. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.58 per mile.

f. The only exemption which would not require the Commissioner of Administration's approval for exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

g. Payments rentals made through the state of Louisiana out-of state contracts may be made using the “LaCarte” purchasing card, an employee’s corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If a direct bill account is chosen for Enterprise and National, you may contact Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com and for Hertz, you may contact Tami Vetter at 225-303-5973, tvetter@hertz.com.

h. Approvals. Written approval of the department head or his designee prior to departure is not required for the rental of vehicles, however, if your agency chooses, approval may be made mandatory or handled on an annual basis if duties require frequent rentals. Special approval is required, from the department head or his/her designee, for rental of any vehicle in the “full size” category or above. File must include proper justification.

i. Vehicle Rental Size

i. Only the cost of a compact or intermediate model is reimbursable, unless:

(a). non-availability is documented; or

(b). the vehicle will be used to transport more than two persons.

NOTE: When a larger vehicle is necessary as stated in 1 or a larger vehicle is necessary due to the number of persons being transported, the vehicle shall be upgraded only to the next smallest size and lowest price necessary to accommodate the number of persons traveling.

ii. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided detailed justification is made in the employee’s file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor’s recommendation.

j. Personal Use of Rental. Personal use of a rental vehicle, when rented for official state business, is not allowed.

k. Gasoline (Receipts Required). Reimbursements require an original receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state-owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. An employee must purchase gasoline from a local gasoline station prior to returning the rental. Pre-paid fuel options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are only to be allowed. If traveler utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as locations of vendors.

l. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than the state’s in-state and out-of-state mandatory contracts, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should immediately be reported to the Office of

Risk Management and rental company. Any damage involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/damage waiver insurance and \$1 million liability protection coverage is included in the state in-state and out-of-state rental contract pricing.

NOTE: Lost keys and car door unlocking services for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

ii. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.C.3.i There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not allowed for daily routine travel unless prior approval from the Commissioner of Administrator). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

m. Insurance for Vehicles Rentals outside the 50 United States (Receipts Required). The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head or his/her designee required insurance costs may be reimbursed for travel outside the 50 United States only.

10. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and submit a reimbursement claimed on a travel expense form. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP)—*approval of department head;

d. supplementary liability insurance (SLI)—*if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire)—*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire, *if required by the car rental company.

11. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident coverage insurance (PAC);

b. emergency sickness protection (ESP).

12. Navigation equipment (GPS system), rented not purchased, from a rental car company, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation.

1. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. See receipt requirements below.

a.. Public transportation to and from the airport, while on official state business, may be reimbursed with a receipt.

b. If utilizing Uber or Lyft type services, only a standard size vehicle is reimbursable with an itemized receipt. Premium or larger vehicles size are not reimbursable. Any additional charges other than standard fare rates are not reimbursable (i.e. wait time fees). Travelers should utilize the most economic ground transportation without occurring additional markup fees.

c. When travelers utilize a free shuttle service, a \$5.00 tip may be allowed (no receipt is required). This is not an automatic tip reimbursement, as travelers must show proof that the service was utilized

2. Airport Shuttle/limousines, taxi and all other public transportation where a receipt is available, requires a receipt for reimbursements. A driver's tip for shuttle/limousines and taxis may be given and must not exceed 20 percent of total charge. Amount of tip must be included on receipt received from driver/company.

3. All other forms of public ground transportation, where a receipt is not possible and other than those listed above, are limited to \$10 per day without a receipt, claims in excess of \$10 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than \$10 per day.

4. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

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§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card shall result in disciplinary action.

2. If a vendor does not accept credit card payment for, registration or lodging expense, the Department Head may approve for payment(s) to be made by other means. Traveler must submit supporting documentation from vendor stating they do not accept credit card payments. The supporting document must be kept with the travel expense form.

B. Liability

1. The corporate travel card is the liability of the state. Each monthly statement balance is due in full to the card-issuing bank. The state will have no tolerance to assist those employees who abuse their travel card privileges.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring from state service.

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§1506. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30-day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

a. The only exemption, for travel of 31 days or more which does not require the Commissioner of Administration's approval, are students, professors or other state traveler which are traveling on a grant, scholarship, studying abroad or any other occasion where funds utilized are other than state general funds. Department head approval is required.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized

traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement. Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases, the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere to the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i. The maximum allowance for meal reimbursement for single-day travel will be \$43:

(a). breakfast and lunch: (\$24). The 12-hours travel duration must begin at or before 6 a.m.;

(b). lunch: (\$13); requires a 14-hour duration in travel status;

(c). lunch and dinner: (\$43). The 12-hour travel duration must end at or after 8 p.m.

4. Travel with Over-Night Stay (minimum of 12 hours in travel status). Travelers may be reimbursed for meals according to the following schedule:

a. breakfast—when travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days;

b. lunch—when travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days;

c. dinner—when travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts Required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. (Note this authority is for routine lodging only and not for conference lodging or any other area of PPM-49) Justification and approval must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for Elected Officials, Board Members (if allowed by the Board) and State Officers (Itemized receipts are required for each item claimed): Elected Officials, Board Members (if allowed by the Board) and State Officers and others so authorized by statute, or any individual preapproved exception will be reimbursed on an actual expense basis for meals and lodging, while in travel

status, except in cases where other provisions for reimbursement have been made by statute. (Itemized Receipts(s) Required) Request shall not be extravagant and will be reasonable in relation to the purpose of travel. Elected Officials, Board Members if allowed by the Board) and State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in these travel regulations.

C. Meals and Lodging Allowances (meal rates are not a per diem; only the maximum allowed while in travel status)

1. Meal Allowance (includes tax and tips). Receipts are not required for routine meals within these allowances, unless a cash advance was received. (See §1503.B.2). Number of meals claimed must be shown on travel expense form. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head or his/her designee on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals.

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal.

Example: The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance. The state has contracted for all hotel expenditures through HotelPlanners contract. Lodging rate, plus tax and any mandatory surcharge. (Receipts are required.) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website for all in-state lodging. <http://www.doa.la.gov/osp/Travel/forms/hoteltax exemption.pdf> when traveling in-state on official state business, and must be used if hotel expenses are being charged to employee's state corporate travel card, the LaCarte Card or the agency's CBA account. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations. Example: The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area. Department head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

5. Conference Lodging Allowance. Employees may be allowed lodging rates, plus tax (other than state of Louisiana tax) and any mandatory surcharge. (Receipts are required.) Department head or his/her designee has the

authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head or his/her designee may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels in the immediate vicinity of the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances. In the event a traveler chooses to stay at a hotel which is not associated with the conference, then the traveler is subject to making reservation and getting reimbursed within the hotel rates that will be allowed in routine lodging only, as listed below. Note: Training courses which are several days and have a designated hotel and rate, can be considered a “conference hotel” and therefore the designated rate can be allowed.

6. Resort fees are not allowable unless attending a conference and/or if a traveler is staying in a city that all hotels are charging a resort fee.

7. Tax Recovery Charges, Service fees and/or Booking fees are not allowed when booking through companies other than Short’s Travel Management or their affiliated company.

8. Traveler will be responsible for reimbursing agency for any In-state taxes when tax exemption form is not presented at time of check-in at hotel.

9. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

10. If staying at a designated conference hotel or the overflow hotel(s) you may not rent a vehicle unless prior approval is granted from the department head. Rental must be for official state business needs with supporting documentation maintained in the file.

TIER I	
Breakfast	\$10
Lunch	\$14
Dinner	\$29
Total	\$53
Lodging Area	
In-State Cities (except as listed)	\$94
Alexandria/Leesville/Natchitoches	\$98
Baton Rouge-EBR	\$100
Covington/Slidell-St. Tammany	\$94
Lake Charles-Calcasieu	\$94
Lafayette	\$94

TIER II	
Breakfast	\$13
Lunch	\$18
Dinner	\$30
Total	\$61
Lodging Area	
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes	\$118
July- September	\$150
October – January	\$161
February - June	
Out-Of-State (Except Cities Listed in Tier III & IV)	\$94

TIER III	
Breakfast	\$13
Lunch	\$19
Dinner	\$33
Total	\$65
Lodging Area	
Austin, TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR, Sacramento, CA; San Antonio, TX; San Diego, CA; Sedona, AZ; St. Louis, MO; Wilmington, DE; all of Alaska and Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam, Saipan	\$170

TIER IV	
Breakfast	\$14
Lunch	\$21
Dinner	\$36
Total	\$71
Lodging Area	
Baltimore, MD; San Francisco, CA; Seattle, WA; Chicago, IL; Boston, MA	\$212
Alexandria, VA; Arlington, VA; New York City, NY; Washington DC	\$225
International Cities	\$200

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§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$4.50 per day (receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the Baton Rouge airport. Documentation required to receive the contract price is the airport certificate and a state ID. If the agency does not issue a state ID, the traveler would need a business card and a driver's license along with the certificate to be eligible for the state contracted rate. Airport certificate may be found on State Travel Office's website at <http://www.doa.la.gov/osp/Travel/parking/BRairport.pdf>.

B. New Orleans Airport Parking. The state's current contract is with Park-N-Fly and the rate, inclusive of all allowable and approved taxes/fees, etc will not exceed \$8.50 per day and \$59.50 weekly (receipts required for parking at Park-N-Fly in New Orleans). Promotional code 0050056 must be used to obtain this rate. For on-line reservations, no other documentation will be required to receive this rate. For all “pay when you exit” employees, a state issued ID or a valid ID with a state business card along with a tax exempt

form is required to receive the state contracted rate. At the agency discretion an employee may be paid actual expenses, at another location, up to \$8.50 per day with a receipt.

C. Travelers using motor vehicles on official state business may be reimbursed for all other parking, including airport parking except as listed in A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$5 per day.

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§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For Official State Business—all business communication costs may be reimbursed (receipts required).

NOTE: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

b. For Domestic Overnight Travel—up to \$3 for personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

c. For International Travel—up to \$10 for personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment/ materials can be placed on the agency's CBA account. (Receipts Required)

C. Baggage Tips

1. Hotel Allowances—up to \$5 tip per hotel check-in and \$5 tip per hotel checkout, if applicable.

2. Airport Allowances—up to \$5 tip for airport outbound departure trip and \$5 tip for inbound departure trip (Maximum total for entire trip is not to exceed \$10.00).

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of 5 days or less and for the second checked bag for a 6-10 day business trip and/or any

additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration Fees at Conferences (Meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head.). Note: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

F. Laundry Services. Employees on travel for more than seven days may be reimbursed with department head or his/her designee's prior approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), republished LR 33:1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:992 (July 2016), LR 43:1121 (June 2017), LR 45:823 (June 2019).

§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state officer or state employees are required by their supervisor to work more than a 12-hour weekday or six hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for higher education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a

department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under meals, Tier 1, to be served in conjunction with a working meeting of departmental staff. Reasonable delivery fee and tip may be allowed if ordered from outside vendor. No tip should ever exceed 20 percent.

D. In such cases, the department will report on a quarterly basis to the Commissioner of Administration all special meal reimbursements made during the previous three months. For higher education, these reports should be sent to the respective institution of higher education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation:

- a. all of the following must be reviewed and approved by the department head or his/her designee prior to reimbursement:

- i. detailed breakdown of all expenses incurred, with appropriate receipts(s);

- ii. subtraction of cost of any alcoholic beverages;

- iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:823 (June 2019).

§1510. Agency-Hosted Conferences

(Both In-State and Out-of-State)

A. State Sponsored Conferences. An agency must solicit three bona fide competitive quotes in accordance with the governor's Executive Order for small purchase.

B. Attendee Verification. All state-sponsored conferences must have a sign-in sheet or some type of attendee acknowledgment for justification of number of meals ordered and charged.

C. Conference Lunch Allowance. Lunch direct-billed to an agency in conjunction with a state-sponsored conference is to be within the following rates plus mandated gratuity. Any gratuity which is not mandated may not exceed 20 percent.

Lunch In-State excluding New Orleans	\$25
Lunch—New Orleans and Out-of-State	\$30

1. Any other meals such as breakfast and dinner require special approval from the Commissioner of Administration or for higher education, the entity head or his/her designee.

D. Conference Refreshment Allowance. Costs for break allowances for meetings, conferences or conventions are to be within the following rates.

- a. Refreshments shall not exceed \$5.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

E. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:824 (June 2019).

§1511. International Travel

A. International travel must be approved by the Commissioner of Administration or, for higher education, the entity head or his designee prior to departure, unless specific authority for approval has been delegated to a Department Head. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate, date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration or, for Higher Education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. state department rates. http://aoprals.state.gov/web920/per_diem.asp.

C. It is the agency's decision, if justification is given, to allow state travelers to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with detailed justification as to why this reimbursement is being requested/approved.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:994 (July 2016), LR 43:1123 (June 2017), LR 45:824 (June 2019).

§1512. Waivers

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served. All waivers must obtain prior approvals, except in emergency situations.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1259 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), republished LR 35:1202 (July 2009), amended LR 36:1657 (July 2010), LR 42:994 (July 2016), LR 43:1123 (June 2017), LR 45:825 (June 2019).

Tammy Toups
Director

1906#009

Committee Reports

COMMITTEE REPORT

House Committee on Natural Resources and Environment

Oversight Hearing on Notice of Intent
Proposed by Department of Wildlife and Fisheries
2019-2020 Hunting Regulations and Seasons
(LAC 76:V.119 and XIX.Chapter 1)

In accordance with the powers conferred in the Administrative Procedure Act by R.S. 49:968, the House Committee on Natural Resources and Environment met on Wednesday, May 29, 2019, to exercise oversight authority on the attached Notice of Intent to consider rules submitted by the Louisiana Department of Wildlife and Fisheries on May 22, 2019.

The Notice of Intent provides for the "2019-20 and 2020-21 resident game hunting seasons, 2019-20 general and Wildlife Management Areas (WMA) hunting seasons, rules and regulations, 2020 general and WMA turkey hunting season, rules and regulations and 2019-20 migratory bird hunting season, rules and regulations". The attached rules were finally adopted by the Louisiana Wildlife and Fisheries Commission at their May 3, 2019, meeting.

After a thorough hearing on the matter of a ban on the use or possession of scents or lures that contain natural deer urine or other bodily fluids while taking, attempting to take, attracting, or scouting wildlife, including a presentation by the department and public testimony, the committee, by a vote of 8-3, found Section 111(E)(11) of Chapter 1 of Part

XIX of Title 76 of the Louisiana Administrative Code (the ban on the use of deer urine) "unacceptable" as provided in R.S. 49:968(D)(3). The remainder of the rule can move forward as submitted with no objection from the committee.

The committee found that the proposed subsection of the rule is unenforceable and not reasonable, that it is lacking in merit, and is unacceptable. The committee further determined that the rule unnecessarily criminalizes behavior that is not criminal and potentially subjects the citizens of Louisiana to an expensive legal battle for which the Department of Wildlife and Fisheries would not have sufficient evidence for conviction.

In addition, there is not sufficient scientific documentation to convince the committee that prohibiting the use or possession of deer urine while hunting will prevent the introduction of chronic wasting disease into the state of Louisiana. There are no barriers to deer entering the state of their own volition from any of our neighboring states within which chronic wasting disease has already been found.

By transmittal of this written report of committee action and pursuant to R.S. 49:968(F) the committee is notifying the Governor, the Wildlife and Fisheries Commission, the Department of Wildlife and Fisheries, and the Louisiana Register of the committee's action.

Stuart J. Bishop, Chairman
State Representative

1906#041

Governor's Reports

GOVERNOR'S REPORT

Governor's Disapproval of Action Taken by House
Committee on Natural Resources and Environment
2019-2020 Hunting Regulations and Seasons
(LAC:V.119 and XIX.Chapter 1)

Dear Chairman Bishop:

I have received and reviewed your letter of May 30, 2019 informing me that the rule adopted by the Louisiana Wildlife and Fisheries Commission found in Section 111(E)(11) of Chapter 1 of Part XIX of Title 76 of the Louisiana Administrative Code (banning the use of deer urine) has been considered unacceptable by the House Committee on Natural Resources and Environment. After consideration and for the reasons below, I do not approve of the committee's action.

The Wildlife and Fisheries Commission gave careful consideration to this proposed rule, which was part of a larger package of rules regarding hunting regulations for the 2019-2020 and 2020-2021 hunting seasons. The ban on deer urine, like the ban on the importation of cervid carcasses, is

meant to address the very real threat of Chronic Wasting Disease (CWD) to the Louisiana deer population. Unlike in our neighboring states, CWD has not been confirmed to be present in Louisiana. This is in large part due to the vigilance of the Louisiana Department of Wildlife and Fisheries and the Louisiana Wildlife and Fisheries Commission. This rule is a part of that effort. Further, this rule is similar to actions taken by our neighboring states in their attempts to prevent the spread of CWD.

While I am hereby disapproving the action of your committee, I am aware that there was significant discussion in the committee hearing about new testing that will possibly be available for the 2019-2020 hunting season that would eliminate the possibility of CWD contaminated deer urine. I am directing that the Wildlife and Fisheries Commission give careful consideration to providing for an exception to this rule for any deer urine materials that have been subjected to this new testing.

John Bel Edwards
Governor

1906#035

Potpourri

POTPOURRI

Louisiana Department of Health Office of Public Health Bureau of Family Health

Public Notice—Title V MCH Block Grant

The Department of Health (LDH) intends to apply for Title V Maternal and Child (MCH) Block Grant Federal Funding for FY 2018-2019 in accordance with Public Law 97-35 and the Omnibus Budget Reconciliation Act of 1981. The Office of Public Health, Bureau of Family Health is responsible for program administration of the grant.

The block grant application describes in detail the goals and planned activities to advance maternal and child health and the health and systems of care for children and youth with special health care needs. Grant priorities are based on the results of a statewide needs assessment conducted in 2015, which is updated annually based on relevant data collection.

Interested persons may view a summary of the application at: <http://www.dhh.louisiana.gov/index.cfm/page/935>

Additional information may be gathered by contacting Liz Keenan at (504) 568-3521.

M. Beth Scalco
Interim Assistant Secretary

1906#001

POTPOURRI

Department of Insurance Office of Health, Life and Annuity Insurance

Annual HIPAA Assessment Rate

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00024 percent.

James J. Donelon
Commissioner

1906#024

POTPOURRI

Department of Natural Resources Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
A. J. Bankhead	Arnaudville	L	Valery Stelly	001	35379
Amarex, Inc.	Morganza	L	17900 Tusc Ra Sue:John W Barton	001	172556 (29)
Charles A. O'Niell, Jr.	Golden Meadow	L	Olucien Cheramie	006	34971
Charles A. O'Niell, Jr.	Golden Meadow	L	Olucien Cheramie	007	35894
Charles A. O'Neil, Jr.	Golden Meadow	L	Olucien Cheramie	B-2	36891
Dailey Oil And Gas LLC	Esther	L	vua; Paul Mayard	001	164017
Dailey Oil And Gas Llc	Vacherie	L	St Joseph Pltg and Mfg Co Ltd	001	244389
Dailey Oil And Gas LLC	Esther	L	Esther swd	002	971798
Dean Enterprises, Inc.	Iowa	L	F Heyd	006	16178
Dean Enterprises, Inc.	Iowa	L	F Heyd	011	17396
Dean Enterprises, Inc.	Iowa	L	F Heyd	018	18084
Dean Enterprises, Inc.	Iowa	L	F Heyd	022	19680
Dean Enterprises, Inc.	Iowa	L	F Heyd	025	20065
Dean Enterprises, Inc.	Iowa	L	F Heyd	029	23271
Dean Enterprises, Inc.	Iowa	L	A O Fontenot	009	26825
Dean Enterprises, Inc.	Iowa	L	F Heyd	035	31508
Dean Enterprises, Inc.	Iowa	L	F Heyd	041	36894
Dean Enterprises, Inc.	Iowa	L	Heyd swd	014	58983

Operator	Field	District	Well Name	Well Number	Serial Number
Dean Enterprises, Inc.	Iowa	L	F Heyd	056	130945
Dean Enterprises, Inc.	Iowa	L	Io 4400 ra su; Heyd	018d	144694
Dean Enterprises, Inc.	Iowa	L	F Heyd	059	148510
Dean Enterprises, Inc.	Iowa	L	F Heyd	061	150514
Dean Enterprises, Inc.	Iowa	L	F Heyd	062	150818
Dean Enterprises, Inc.	Iowa	L	F Heyd	063	150969
Dean Enterprises, Inc.	Iowa	L	F Heyd	064	151092
Dean Enterprises, Inc.	Iowa	L	F Heyd	065	162587
Dean Enterprises, Inc.	Iowa	L	F Heyd	066	162607
Dean Enterprises, Inc.	Iowa	L	F Heyd swd	067	163302
Dean Enterprises, Inc.	Iowa	L	A O Fontenot	012	163781
Dean Enterprises, Inc.	Iowa	L	F Heyd	069	185751
Dean Enterprises, Inc.	Iowa	L	F Heyd	071	185807
Dean Enterprises, Inc.	Iowa	L	F Heyd	072	186121
Dean Enterprises, Inc.	Woodlawn	L	Herbert Racca	002	208190
Dean Enterprises, Inc.	Woodlawn	L	7480 ra sua; Guthrey et Vir	001	213604
R.C.A. Oil and Gas Co.	Red River-Bull Bayou	S	Ruth Wemple	A-1	68360
R. J. Monaghan	Golden Meadow	L	Olucien Cheramie	B-1	117527
Rooster Petroleum, LLC	Belle Isle	L	SL 340 Atchafalaya Bay	011	53334

Operator	Field	District	Well Name	Well Number	Serial Number
Rooster Petroleum, LLC	Belle Isle	L	SL 340 Atchafalaya Bay	022	68491
Rooster Petroleum, LLC	Belle Isle	L	SL 340 Atchafalaya Bay	024	78108
Rooster Petroleum, LLC	Belle Isle	L	SL 340 Atchafalaya Bay	036	154369
Rooster Petroleum, LLC	Belle Isle	L	SL 340 Atchafalaya Bay	038	159530
Rooster Petroleum, LLC	Chandeleur Sound Addition Block 63	L	SL 9680	002	198345
Rooster Petroleum, LLC	Chandeleur Sound Addition Block 63	L	SL 9680	003	219411
Rooster Petroleum, LLC	Chandeleur Sound Addition Block 63	L	SL 9680	004	225293
South La. Production Co., Inc.	Red River-Bull Bayou	S	Scott	001	24757
U. O. C., Inc.	Caddo Pine Island	S	Underwood	001	35694
U. O. C., Inc.	Caddo Pine Island	S	Underwood	008	51956
U. O. C., Inc.	Caddo Pine Island	S	Underwood	002	51981
U. O. C., Inc.	Caddo Pine Island	S	Underwood	003	52406
U. O. C., Inc.	Caddo Pine Island	S	Underwood	004	52660
U. O. C., Inc.	Caddo Pine Island	S	Underwood	005	67938
U. O. C., Inc.	Caddo Pine Island	S	Underwood	006	68983
U. O. C., Inc.	Caddo Pine Island	S	Underwood	007	68984
W. D. Chew	Caddo Pine Island	S	Rives	002	19315
W. M. Keck II	Port Barre	L	J A Perkins est	002	94542

Operator	Field	District	Well Name	Well Number	Serial Number
Williams Production Company Inc	Tullos Urania	M	Mrs. Alonzo Doughty	002	76082
Williams Production Company Inc	Tullos Urania	M	A. Doughty	001	192722
Williams Production Company Inc	Tullos Urania	M	A Doughty	003	192857

Operator	Field	District	Well Name	Well Number	Serial Number
Unknown	Caddo Pine Island	S	Goodwill Fee	003	990490
Unknown	Logansport	S	Bogle	001	990492

Richard P. Ieyoub
Commissioner

1906#018

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